

## APPENDIX "A" to HOME STUDY CORE 1624-H

### 225 ILCS 454/) **Real Estate License Act of 2000**

(225 ILCS 454/Art. 1 heading)

#### ARTICLE 1. GENERAL PROVISIONS

(225 ILCS 454/1-1)

(Section scheduled to be repealed on January 1, 2010)

Sec. 1-1. Short title; Act supersedes Real Estate License Act of 1983. This Act shall be known and may be cited as the Real Estate License Act of 2000, and it shall supersede the Real Estate License Act of 1983 repealed by this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/1-5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 1-5. Legislative intent. The intent of the General Assembly in enacting this statute is to evaluate the competency of persons engaged in the real estate business and to regulate this business for the protection of the public.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/1-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 1-10. Definitions. In this Act, unless the context otherwise requires:

"Act" means the Real Estate License Act of 2000.

"Advisory Council" means the Real Estate Education Advisory Council created under Section 30-10 of this Act.

"Agency" means a relationship in which a real estate broker or licensee, whether directly or through an affiliated licensee, represents a consumer by the consumer's consent, whether express or implied, in a real property transaction.

"Applicant" means any person, as defined in this Section, who applies to OBRE for a valid license as a real estate broker, real estate salesperson, or leasing agent.

"Blind advertisement" means any real estate advertisement that does not include the sponsoring broker's business name and that is used by any licensee regarding the sale or lease of real estate, including his or her own, licensed activities, or the hiring of any licensee under this Act. The broker's business name in the case of a franchise shall include the franchise affiliation as well as the name of the individual firm.

"Board" means the Real Estate Administration and Disciplinary Board of OBRE.

"Branch office" means a sponsoring broker's office other than the sponsoring broker's principal office.

"Broker" means an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly:

- (1) Sells, exchanges, purchases, rents, or leases real estate.
- (2) Offers to sell, exchange, purchase, rent, or lease real estate.
- (3) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate.
- (4) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange.
- (5) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements thereon.
- (6) Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate.
- (7) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate.
- (8) Assists or directs in procuring or referring of prospects, intended to result in the sale, exchange, lease, or rental of real estate.
- (9) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate.
- (10) Opens real estate to the public for marketing purposes.
- (11) Sells, leases, or offers for sale or lease real estate at auction.

"Brokerage agreement" means a written or oral agreement between a sponsoring broker and a consumer for licensed activities to be provided to a consumer in return for compensation or the right to receive compensation from another. Brokerage agreements may constitute either a bilateral or a unilateral agreement between the broker and the broker's client depending upon the content of the brokerage agreement. All exclusive brokerage agreements shall be in writing.

"Client" means a person who is being represented by a licensee.

"Commissioner" means the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead.

"Compensation" means the valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including without limitation the following:

- (1) commissions;
- (2) referral fees;
- (3) bonuses;
- (4) prizes;
- (5) merchandise;
- (6) finder fees;
- (7) performance of services;
- (8) coupons or gift certificates;
- (9) discounts;
- (10) rebates;
- (11) a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;
- (12) retainer fee; or
- (13) salary.

"Confidential information" means information obtained by a licensee from a client during the term of a brokerage agreement that (i) was made confidential by the written request or written instruction of the client, (ii) deals with the negotiating position of the client, or (iii) is information the disclosure of which could materially harm the negotiating position of the client, unless at any time:

- (1) the client permits the disclosure of information given by that client by word or conduct;
- (2) the disclosure is required by law; or
- (3) the information becomes public from a source other than the licensee.

"Confidential information" shall not be considered to include material information about the physical condition of the property.

"Consumer" means a person or entity seeking or receiving licensed activities.

"Continuing education school" means any person licensed by OBRE as a school for continuing education in accordance with Section 30-15 of this Act.

"Credit hour" means 50 minutes of classroom instruction in course work that meets the requirements set forth in rules adopted by OBRE.

"Customer" means a consumer who is not being represented by the licensee but for whom the licensee is performing ministerial acts.

"Designated agency" means a contractual relationship between a sponsoring broker and a client under Section 15-50 of this Act in which one or more licensees associated with or employed by the broker are designated as agent of the client.

"Designated agent" means a sponsored licensee named by a sponsoring broker as the legal agent of a client, as provided for in Section 15-50 of this Act.

"Director" means the Director of the Real Estate Division, OBRE.

"Dual agency" means an agency relationship in which a licensee is representing both buyer and seller or both landlord and tenant in the same transaction. When the agency relationship is a designated agency, the question of whether there is a dual agency shall be determined by the agency relationships of the designated agent of the parties and not

of the sponsoring broker.

"Employee" or other derivative of the word "employee", when used to refer to, describe, or delineate the relationship between a real estate broker and a real estate salesperson, another real estate broker, or a leasing agent, shall be construed to include an independent contractor relationship, provided that a written agreement exists that clearly establishes and states the relationship. All responsibilities of a broker shall remain.

"Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Escrow moneys includes without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased and for which the security deposit is being held.

"Exclusive brokerage agreement" means a written brokerage agreement that provides that the sponsoring broker has the sole right, through one or more sponsored licensees, to act as the exclusive designated agent or representative of the client and that meets the requirements of Section 15-75 of this Act.

"Inoperative" means a status of licensure where the licensee holds a current license under this Act, but the licensee is prohibited from engaging in licensed activities because the licensee is unsponsored or the license of the sponsoring broker with whom the licensee is associated or by whom he or she is employed is currently expired, revoked, suspended, or otherwise rendered invalid under this Act.

"Leasing Agent" means a person who is employed by a real estate broker to engage in licensed activities limited to leasing residential real estate who has obtained a license as provided for in Section 5-5 of this Act.

"License" means the document issued by OBRE certifying that the person named thereon has fulfilled all requirements prerequisite to licensure under this Act.

"Licensed activities" means those activities listed in the definition of "broker" under this Section.

"Licensee" means any person, as defined in this Section, who holds a valid unexpired license as a real estate broker, real estate salesperson, or leasing agent.

"Listing presentation" means a communication between a real estate broker or salesperson and a consumer in which the licensee is attempting to secure a brokerage agreement with the consumer to market the consumer's real estate for sale or lease.

"Managing broker" means a broker who has supervisory responsibilities for licensees in one or, in the case of a multi-office company, more than one office and who has been appointed as such by the sponsoring broker.

"Medium of advertising" means any method of communication intended to influence the general public to use or purchase a particular good or service or real estate.

"Ministerial acts" means those acts that a licensee may perform for a consumer that are informative or clerical in nature and do not rise to the level of active representation on behalf of a consumer. Examples of these acts include without limitation (i) responding to phone inquiries by consumers as to the availability and pricing of brokerage services, (ii) responding to phone inquiries from a consumer concerning the price or location of property, (iii) attending an open house and responding to questions about the property from a consumer, (iv) setting an appointment to view property, (v) responding to questions of consumers walking into a licensee's office concerning brokerage services offered or particular properties, (vi) accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property, (vii) describing a property or the property's condition in response to a consumer's inquiry, (viii) completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client, (ix) showing a client through a property being sold by an owner on his or her own behalf, or (x) referral to another broker or service provider.

"OBRE" means the Office of Banks and Real Estate.

"Office" means a real estate broker's place of business where the general public is invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business.

"Person" means and includes individuals, entities, corporations, limited liability companies, registered limited liability partnerships, and partnerships, foreign or domestic, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Personal assistant" means a licensed or unlicensed person who has been hired for the purpose of aiding or assisting a sponsored licensee in the performance of the sponsored licensee's job.

"Pocket card" means the card issued by OBRE to signify that the person named on the card is currently licensed under this Act.

"Pre-license school" means a school licensed by OBRE offering courses in subjects related to real estate transactions, including the subjects upon which an applicant is examined in determining fitness to receive a license.

"Pre-renewal period" means the period between the date of issue of a currently valid license and the license's expiration date.

"Real estate" means and includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or non-freehold, including timeshare interests, and whether the real estate is situated in this State or elsewhere.

"Real Estate Administration and Disciplinary Board" or "Board" means the Real Estate Administration and Disciplinary Board created by Section 25-10 of this Act.

"Salesperson" means any individual, other than a real estate broker or leasing agent, who is employed by a real estate broker or is associated by written agreement with a

real estate broker as an independent contractor and participates in any activity described in the definition of "broker" under this Section.

"Sponsoring broker" means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.

"Sponsor card" means the temporary permit issued by the sponsoring real estate broker certifying that the real estate broker, real estate salesperson, or leasing agent named thereon is employed by or associated by written agreement with the sponsoring real estate broker, as provided for in Section 5-40 of this Act.

(Source: P.A. 92-217, eff. 8-2-01; 93-957, eff. 8-19-04.)

(225 ILCS 454/Art. 5 heading)

ARTICLE 5. LICENSING AND EDUCATION

(225 ILCS 454/5-5)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 5-5. Leasing agent license.

(a) The purpose of this Section is to provide for a limited scope license to enable persons who wish to engage in activities limited to the leasing of residential real property for which a license is required under this Act, and only those activities, to do so by obtaining the license provided for under this Section.

(b) Notwithstanding the other provisions of this Act, there is hereby created a leasing agent license that shall enable the licensee to engage only in residential leasing activities for which a license is required under this Act. Such activities include without limitation leasing or renting residential real property, or attempting, offering, or negotiating to lease or rent residential real property, or supervising the collection, offer, attempt, or agreement to collect rent for the use of residential real property. Nothing in this Section shall be construed to require a licensed real estate broker or salesperson to obtain a leasing agent license in order to perform leasing activities for which a license is required under this Act. Licensed leasing agents must be sponsored and employed by a sponsoring broker.

(c) OBRE, by rule, with the advice of the Board, shall provide for the licensing of leasing agents, including the issuance, renewal, and administration of licenses.

(d) Notwithstanding any other provisions of this Act to the contrary, a person may engage in residential leasing activities for which a license is required under this Act, for a period of 120 consecutive days without being licensed, so

long as the person is acting under the supervision of a licensed real estate broker and the broker has notified OBRE that the person is pursuing licensure under this Section. During the 120 day period all requirements of Sections 5-10 and 5-65 of this Act with respect to education, successful completion of an examination, and the payment of all required fees must be satisfied. OBRE may adopt rules to ensure that the provisions of this subsection are not used in a manner that enables an unlicensed person to repeatedly or continually engage in activities for which a license is required under this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-10. Application for leasing agent license. Every person who desires to obtain a leasing agent license shall apply to OBRE in writing on forms provided by OBRE. In addition to any other information required to be contained in the application, every application for an original or renewed leasing agent license shall include the applicant's Social Security number. All application or license fees must accompany the application. Each applicant must be at least 18 years of age, must be of good moral character, shall have successfully completed a 4-year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education, and shall successfully complete a written examination authorized by OBRE sufficient to demonstrate the applicant's knowledge of the provisions of this Act relating to leasing agents and the applicant's competence to engage in the activities of a licensed leasing agent. Applicants must successfully complete 15 hours of instruction in an approved course of study relating to the leasing of residential real property. The course of study shall, among other topics, cover the provisions of this Act applicable to leasing agents; fair housing issues relating to residential leasing; advertising and marketing issues; leases, applications, and credit reports; owner-tenant relationships and owner-tenant laws; the handling of funds; and environmental issues relating to residential real property. Successfully completed course work, completed pursuant to the requirements of this Section, may be applied to the course work requirements to obtain a real estate broker's or salesperson's license as provided by rule. The Advisory Council shall recommend through the Board to OBRE and OBRE shall adopt requirements for approved courses, course content, and the approval of courses, instructors, and schools, as well as school and instructor fees. OBRE may establish continuing education requirements for licensed leasing agents, by rule, with the advice of the Advisory Council and Board.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-15. Necessity of broker, salesperson, or leasing agent license or sponsor card; ownership restrictions.

(a) It is unlawful for any person, corporation, limited liability company, registered limited liability partnership, or partnership to act as a real estate broker, real estate salesperson, or leasing agent or to advertise or assume to act as such broker, salesperson, or leasing agent without a properly issued sponsor card or a license issued under this Act by OBRE, either directly or through its authorized designee.

(b) No corporation shall be granted a license or engage in the business or capacity, either directly or indirectly, of a real estate broker, unless every officer of the corporation who actively participates in the real estate activities of the corporation holds a license as a real estate broker and unless every employee who acts as a salesperson, or leasing agent for the corporation holds a license as a real estate broker, salesperson, or leasing agent.

(c) No partnership shall be granted a license or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker, unless every general partner in the partnership holds a license as a real estate broker and unless every employee who acts as a salesperson or leasing agent for the partnership holds a license as a real estate broker, salesperson, or leasing agent. In the case of a registered limited liability partnership (LLP), every partner in the LLP must hold a license as a real estate broker and every employee who acts as a salesperson or leasing agent must hold a license as a real estate broker, salesperson, or leasing agent.

(d) No limited liability company shall be granted a license or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker unless every manager in the limited liability company holds a license as a real estate broker and unless every member and employee who acts as a salesperson or leasing agent for the limited liability company holds a license as a real estate broker, salesperson, or leasing agent.

(e) No partnership, limited liability company, or corporation shall be licensed to conduct a brokerage business where an individual salesperson or leasing agent, or group of salespersons or leasing agents, owns or directly or indirectly controls more than 49% of the shares of stock or other ownership in the partnership, limited liability company, or corporation.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-20. Exemptions from broker, salesperson, or leasing agent license requirement. The requirement for holding a license under this Article 5 shall not apply to:

(1) Any person, partnership, or corporation that as owner or lessor performs any of the acts described in the definition of "broker" under Section 1-10 of this Act with reference to property owned or leased by it, or to the regular employees thereof with respect to the property so owned or leased, where such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, provided that such regular employees do not perform any of the acts described in the definition of "broker" under Section 1-10 of this Act in connection with a vocation of selling or leasing any real estate or the improvements thereon not so owned or leased.

(2) An attorney in fact acting under a duly executed and recorded power of attorney to convey real estate from the owner or lessor or the services rendered by an attorney at law in the performance of the attorney's duty as an attorney at law.

(3) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will or testamentary trust.

(4) Any person acting as a resident manager for the owner or any employee acting as the resident manager for a broker managing an apartment building, duplex, or apartment complex, when the resident manager resides on the premises, the premises is his or her primary residence, and the resident manager is engaged in the leasing of the property of which he or she is the resident manager.

(5) Any officer or employee of a federal agency in the conduct of official duties.

(6) Any officer or employee of the State government or any political subdivision thereof performing official duties.

(7) Any multiple listing service or other information exchange that is engaged in the collection and dissemination of information concerning real estate available for sale, purchase, lease, or exchange along with which no other licensed activities are provided.

(8) Railroads and other public utilities regulated by the State of Illinois, or the officers or full time employees thereof, unless the performance of any licensed activities is in connection with the sale, purchase, lease, or other disposition of real estate or investment therein not needing the approval of the appropriate State regulatory authority.

(9) Any medium of advertising in the routine course of selling or publishing advertising along with which no other licensed activities are provided.

(10) Any resident lessee of a residential dwelling unit who refers for compensation to the owner of the dwelling unit, or to the owner's agent, prospective lessees of dwelling units in the same building or complex as the resident lessee's unit, but only if the resident lessee (i) refers no more than 3

prospective lessees in any 12-month period, (ii) receives compensation of no more than \$1,000 or the equivalent of one month's rent, whichever is less, in any 12-month period, and (iii) limits his or her activities to referring prospective lessees to the owner, or the owner's agent, and does not show a residential dwelling unit to a prospective lessee, discuss terms or conditions of leasing a dwelling unit with a prospective lessee, or otherwise participate in the negotiation of the leasing of a dwelling unit.

(11) An exchange company registered under the Real Estate Timeshare Act of 1999 and the regular employees of that registered exchange company but only when conducting an exchange program as defined in that Act.

(12) An existing timeshare owner who, for compensation, refers prospective purchasers, but only if the existing timeshare owner (i) refers no more than 20 prospective purchasers in any calendar year, (ii) receives no more than \$1,000, or its equivalent, for referrals in any calendar year and (iii) limits his or her activities to referring prospective purchasers of timeshare interests to the developer or the developer's employees or agents, and does not show, discuss terms or conditions of purchase or otherwise participate in negotiations with regard to timeshare interests.

(13) Any person who is licensed without examination under Section 10-25 of the Auction License Act is exempt from holding a broker's or salesperson's license under this Act for the limited purpose of selling or leasing real estate at auction, so long as:

(A) that person has made application for said exemption by July 1, 2000;

(B) that person verifies to OBRE that he or she has sold real estate at auction for a period of 5 years prior to licensure as an auctioneer;

(C) the person has had no lapse in his or her license as an auctioneer; and

(D) the license issued under the Auction License Act has not been disciplined for violation of those provisions of Article 20 of the Auction License Act dealing with or related to the sale or lease of real estate at auction.

(14) A hotel operator who is registered with the Illinois Department of Revenue and pays taxes under the Hotel Operators' Occupation Tax Act and rents a room or rooms in a hotel as defined in the Hotel Operators' Occupation Tax Act for a period of not more than 30 consecutive days and not more than 60 days in a calendar year.

(Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00; 91-603, eff. 1-1-00; 92-16, eff. 6-28-01; 92-217, eff. 8-2-01.)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-25. Application for and issuance of broker or salesperson license.

(a) Every person who desires to obtain a license shall make application to OBRE in writing upon forms prepared and furnished by OBRE. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. Each applicant shall be at least 21 years of age, be of good moral character, and have successfully completed a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education and shall be verified under oath by the applicant. The minimum age of 21 years shall be waived for any person seeking a license as a real estate salesperson who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by OBRE.

(b) When an applicant has had his or her license revoked on a prior occasion or when an applicant is found to have committed any of the practices enumerated in Section 20-20 of this Act or when an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony involving moral turpitude in any court of competent jurisdiction in this or any other state, district, or territory of the United States or of a foreign country, the Board may consider the prior revocation, conduct, or conviction in its determination of the applicant's moral character and whether to grant the applicant a license. In its consideration of the prior revocation, conduct, or conviction, the Board shall take into account the nature of the conduct, any aggravating or extenuating circumstances, the time elapsed since the revocation, conduct, or conviction, the rehabilitation or restitution performed by the applicant, and any other factors that the Board deems relevant. When an applicant has made a false statement of material fact on his or her application, the false statement may in itself be sufficient grounds to revoke or refuse to issue a license.

(c) Every valid application for issuance of an initial license shall be accompanied by a sponsor card and the fees specified by rule.

(d) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days from the date of issuance unless extended for good cause as provided by rule.

(e) OBRE shall issue to each applicant entitled thereto a license in such form and size as shall be prescribed by OBRE. The procedure for terminating a license shall be printed on the reverse side of the license. Each license shall bear the

name of the person so qualified, shall specify whether the person is qualified to act in a broker or salesperson capacity, and shall contain such other information as shall be recommended by the Board and approved by OBRE. Each person licensed under this Act shall display his or her license conspicuously in his or her place of business.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-30. Education requirements to obtain an original broker or salesperson license.

(a) All applicants for a broker's license, except applicants who meet the criteria set forth in subsection (c) of this Section shall (i) give satisfactory evidence of having completed at least 120 classroom hours, 45 of which shall be those hours required to obtain a salesperson's license plus 15 hours in brokerage administration courses, in real estate courses approved by the Advisory Council or (ii) for applicants who currently hold a valid real estate salesperson's license, give satisfactory evidence of having completed at least 75 hours in real estate courses, not including the courses that are required to obtain a salesperson's license, approved by the Advisory Council.

(b) All applicants for a salesperson's license, except applicants who meet the criteria set forth in subsection (c) of this Section shall give satisfactory evidence that they have completed at least 45 hours of instruction in real estate courses approved by the Advisory Council.

(c) The requirements specified in subsections (a) and (b) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

(d) A minimum of 15 of the required hours of pre-license education shall be in the areas of Article 15 of this Act, disclosure and environmental issues, or any other currently topical areas that are determined by the Advisory Council.  
(Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/5-35)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-35. Examination; broker or salesperson.

(a) Every person who makes application for an original license as a broker or salesperson shall personally take and pass a written examination authorized by OBRE and answer any questions that may be required to determine the good moral character of the applicant and the applicant's competency to transact the business of broker or salesperson, as the case may be, in such a manner as to safeguard the interests of the

public. In determining this competency, OBRE shall require proof that the applicant has a good understanding and the knowledge to conduct real estate brokerage and of the provisions of this Act. The examination shall be prepared by an independent testing service designated by OBRE, subject to the approval of the examinations by the Board. The designated independent testing service shall conduct the examinations at such times and places as OBRE shall approve. In addition, every person who desires to take the written examination shall make application to do so to OBRE or to the designated independent testing service in writing upon forms approved by OBRE. An applicant shall be eligible to take the examination only after successfully completing the education requirements, set forth in Section 5-30 of this Act, and attaining the minimum age specified in this Act. Each applicant shall be required to establish compliance with the eligibility requirements in the manner provided by the rules promulgated for the administration of this Act.

(b) If a person who has received a passing score on the written examination described in this Section fails to file an application and meet all requirements for a license under this Act within one year after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

(c) If an applicant has failed an examination 3 times, the applicant must repeat the pre-license education required to sit for the examination. For the purposes of this Section, the fourth attempt shall be the same as the first. Approved education, as prescribed by this Act for licensure as a salesperson or broker, shall be valid for 3 years after the date of satisfactory completion of the education.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-40. Sponsor card; termination indicated by license endorsement; association with new broker.

(a) The sponsoring broker shall prepare upon forms provided by OBRE and deliver to each licensee employed by or associated with the sponsoring broker a sponsor card certifying that the person whose name appears thereon is in fact employed by or associated with the sponsoring broker. The sponsoring broker shall send, by certified mail, return receipt requested, or other delivery service requiring a signature upon delivery, a duplicate of each sponsor card, along with a valid license or other authorization as provided by rule and the appropriate fee, to OBRE within 24 hours of issuance of the sponsor card. It is a violation of this Act for any broker to issue a sponsor card to any licensee or applicant unless the licensee or applicant presents in hand a valid license or other authorization as provided by rule.

(b) When a licensee terminates his or her employment or

association with a sponsoring broker or the employment is terminated by the sponsoring broker, the licensee shall obtain from the sponsoring broker his or her license endorsed by the sponsoring broker indicating the termination. The sponsoring broker shall surrender to OBRE a copy of the license of the licensee within 2 days of the termination or shall notify OBRE in writing of the termination and explain why a copy of the license is not surrendered. Failure of the sponsoring broker to surrender the license shall subject the sponsoring broker to discipline under Section 20-20 of this Act. The license of any licensee whose association with a sponsoring broker is terminated shall automatically become inoperative immediately upon the termination unless the licensee accepts employment or becomes associated with a new sponsoring broker pursuant to subsection (c) of this Section.

(c) When a licensee accepts employment or association with a new sponsoring broker, the new sponsoring broker shall send, by certified mail, return receipt requested, or other delivery service requiring a signature upon delivery, to OBRE a duplicate sponsor card, along with the licensee's endorsed license or an affidavit of the licensee of why the endorsed license is not surrendered, and shall pay the appropriate fee prescribed by rule to cover administrative expenses attendant to the changes in the registration of the licensee.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-45)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 5-45. Offices.

(a) If a sponsoring broker maintains more than one office within the State, the sponsoring broker shall apply for a branch office license for each office other than the sponsoring broker's principal place of business. The branch office license shall be displayed conspicuously in each branch office. The name of each branch office shall be the same as that of the sponsoring broker's principal office or shall clearly delineate the branch office's relationship with the principal office.

(b) The sponsoring broker shall name a managing broker for each branch office and the sponsoring broker shall be responsible for supervising all managing brokers. The sponsoring broker shall notify OBRE in writing of the name of all managing brokers of the sponsoring broker. Any changes in managing brokers shall be reported to OBRE in writing within 15 days of the change. Failure to do so shall subject the sponsoring broker to discipline under Section 20-20 of this Act.

(c) The sponsoring broker shall immediately notify OBRE in writing of any opening, closing, or change in location of any principal or branch office.

(d) Except as provided in this Section, each sponsoring broker shall maintain a definite office, or place of business

within this State for the transaction of real estate business, shall conspicuously display an identification sign on the outside of his or her office of adequate size and visibility, and shall conspicuously display his or her license in his or her office or place of business and also the licenses of all persons associated with or employed by the sponsoring broker who primarily work at that location. The office or place of business shall not be located in any retail or financial business establishment unless it is separated from the other business by a separate and distinct area within the establishment. A broker who is licensed in this State by examination or pursuant to the provisions of Section 5-60 of this Act shall not be required to maintain a definite office or place of business in this State provided all of the following conditions are met:

- (1) the broker maintains an active broker's license in the broker's state of domicile;
- (2) the broker maintains an office in the broker's state of domicile; and
- (3) the broker has filed with OBRE written statements appointing the Commissioner to act as the broker's agent upon whom all judicial and other process or legal notices directed to the licensee may be served and agreeing to abide by all of the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submitting to the jurisdiction of OBRE.

The statements under subdivision (3) of this Section shall be in form and substance the same as those statements required under Section 5-60 of this Act and shall operate to the same extent.

(e) Upon the loss of a managing broker who is not replaced by the sponsoring broker or in the event of the death or adjudicated disability of the sole proprietor of an office, a written request for authorization allowing the continued operation of the office may be submitted to OBRE within 15 days of the loss. OBRE may issue a written authorization allowing the continued operation, provided that a licensed broker, or in the case of the death or adjudicated disability of a sole proprietor, the representative of the estate, assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operation of the office. No such written authorization shall be valid for more than 60 days unless extended by OBRE for good cause shown and upon written request by the broker or representative.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-50)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-50. Expiration date and renewal period of broker, salesperson, or leasing agent license; sponsoring broker; register of licensees; pocket card.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. Except as otherwise provided in Section 5-55 of this Act, the holder of a license may renew the license within 90 days preceding the expiration date thereof by paying the fees specified by rule. Upon written request from the sponsoring broker, OBRE shall prepare and mail to the sponsoring broker a listing of licensees under this Act who, according to the records of OBRE, are sponsored by that broker. Every licensee associated with or employed by a broker whose license is revoked, suspended, terminated, or expired shall be considered as inoperative until such time as the sponsoring broker's license is reinstated or renewed, or the licensee changes employment as set forth in subsection (c) of Section 5-40 of this Act.

(b) OBRE shall establish and maintain a register of all persons currently licensed by the State and shall issue and prescribe a form of pocket card. Upon payment by a licensee of the appropriate fee as prescribed by rule for engagement in the activity for which the licensee is qualified and holds a license for the current period, OBRE shall issue a pocket card to the licensee. The pocket card shall be verification that the required fee for the current period has been paid and shall indicate that the person named thereon is licensed for the current renewal period as a broker, salesperson, or leasing agent as the case may be. The pocket card shall further indicate that the person named thereon is authorized by OBRE to engage in the licensed activity appropriate for his or her status (broker, salesperson, or leasing agent). Each licensee shall carry on his or her person his or her pocket card or, if such pocket card has not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

(c) Any person licensed as a broker shall be entitled at any renewal date to change his or her license status from broker to salesperson.

(Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/5-55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-55. Expiration and renewal of broker or salesperson license.

(a) Any broker or salesperson whose license under this Act has expired shall be eligible to renew the license for a period of 2 years following the expiration date, provided the broker or salesperson pays the fees as prescribed by rule. A broker or salesperson whose license has been expired for more than 2 years shall be required to meet the requirements for a new license.

(b) Notwithstanding any other provisions of this Act to the contrary, any broker or salesperson whose license under this Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fee, provided

that the license expired while the broker or salesperson was:

(1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or the State Militia called into the service or training of the United States;

(2) engaged in training or education under the supervision of the United States prior to induction into military service; or

(3) serving as the Director of Real Estate in the State of Illinois or as an employee of OBRE.

A broker or salesperson shall be eligible to renew a license under the provisions of this Section for a period of 2 years following the termination of the service, education, or training, provided that the termination was by other than dishonorable discharge and provided that the licensee furnishes OBRE an affidavit specifying that the broker or salesperson has been so engaged and that the service, education, or training has been so terminated.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-60. Broker licensed in another state; nonresident salesperson; reciprocal agreements; agent for service of process.

(a) A broker's license may be issued by OBRE to a broker licensed under the laws of another state of the United States, under the following conditions:

(1) the broker holds a broker's license in his or her state of domicile;

(2) the standards for that state for licensing as a broker are substantially equivalent to or greater than the minimum standards in the State of Illinois;

(3) the broker has been actively practicing as a broker in the broker's state of domicile for a period of not less than 2 years, immediately prior to the date of application;

(4) the broker furnishes OBRE with a statement under seal of the proper licensing authority of the state in which the broker is licensed showing that the broker has an active broker's license, that the broker is in good standing, and that no complaints are pending against the broker in that state;

(5) the broker completes a course of education and passes a test on Illinois specific real estate brokerage laws; and

(6) OBRE has a reciprocal agreement with that state that includes the provisions of this Section.

(b) A nonresident salesperson employed by or associated with a nonresident broker holding a broker's license in this State pursuant to this Section may, in the discretion of OBRE,

be issued a nonresident salesperson's license under the nonresident broker provided all of the following conditions are met:

- (1) the salesperson maintains an active license in the state in which he or she is domiciled;
- (2) the salesperson is domiciled in the same state as the broker with whom he or she is associated;
- (3) the salesperson completes a course of education and passes a test on Illinois specific real estate brokerage laws; and
- (4) OBRE has a reciprocal agreement with that state that includes the provisions of this Section.

The nonresident broker with whom the salesperson is associated shall comply with the provisions of this Act and issue the salesperson a sponsor card upon the form provided by OBRE.

(c) As a condition precedent to the issuance of a license to a nonresident broker or salesperson, the broker or salesperson shall agree in writing to abide by all the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submit to the jurisdiction of OBRE as provided in this Act. The agreement shall be filed with OBRE and shall remain in force for so long as the nonresident broker or salesperson is licensed by this State and thereafter with respect to acts or omissions committed while licensed as a broker or salesperson in this State.

(d) Prior to the issuance of any license to any nonresident, verification of active licensure issued for the conduct of such business in any other state must be filed with OBRE by the nonresident, and the same fees must be paid as provided in this Act for the obtaining of a broker's or salesperson's license in this State.

(e) Licenses previously granted under reciprocal agreements with other states shall remain in force so long as OBRE has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by OBRE for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license.

(f) Prior to the issuance of a license to a nonresident broker or salesperson, the broker or salesperson shall file with OBRE a designation in writing that appoints the Commissioner to act as his or her agent upon whom all judicial and other process or legal notices directed to the broker or salesperson may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of the appointment, certified by the Commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In the written designation, the broker or salesperson shall agree that any lawful process against the licensee that is served upon the agent shall be of the same legal force and validity as if

served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this State. Upon the receipt of any process or notice, the Commissioner shall forthwith mail a copy of the same by certified mail to the last known business address of the licensee.

(g) Any person holding a valid license under this Section shall be eligible to obtain a resident broker's or salesperson's license without examination should that person change their state of domicile to Illinois and that person otherwise meets the qualifications or licensure under this Act.

(Source: P.A. 91-245, eff. 12-31-99; 91-702, eff. 5-12-00.)

(225 ILCS 454/5-65)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-65. Fees. OBRE shall provide by rule for fees to be paid by applicants and licensees to cover the reasonable costs of OBRE in administering and enforcing the provisions of this Act. OBRE may also provide by rule for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-70. Continuing education requirement; broker or salesperson.

(a) The requirements of this Section apply to all licensees.

(b) Except as otherwise provided in this Section, each person who applies for renewal of his or her license as a real estate broker or real estate salesperson must successfully complete real estate continuing education courses approved by the Advisory Council at the rate of 6 hours per year or its equivalent. In addition, beginning with the pre-renewal period for broker licensees that begins after the effective date of this amendatory Act of the 93rd General Assembly, to renew a real estate broker's license, the licensee must successfully complete a 6-hour broker management continuing education course approved by OBRE. Successful completion of the course shall include achieving a passing score as provided by rule on a test developed and administered in accordance with rules adopted by the OBRE. Beginning on the first day of the pre-renewal period for broker licensees that begins after the effective date of this amendatory Act of the 93rd General Assembly, the 6-hour broker management continuing education course must be completed by all persons receiving their initial broker's license within 180 days after the date of

initial licensure as a broker. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the Commissioner with the recommendation of the Advisory Council. The requirements of this Article are applicable to all brokers and salespersons except those brokers and salespersons who, during the pre-renewal period:

- (1) serve in the armed services of the United States;
- (2) serve as an elected State or federal official;
- (3) serve as a full-time employee of OBRE; or
- (4) are admitted to practice law pursuant to Illinois Supreme Court rule.

(c) A person who is issued an initial license as a real estate salesperson less than one year prior to the expiration date of that license shall not be required to complete continuing education as a condition of license renewal. A person who is issued an initial license as a real estate broker less than one year prior to the expiration date of that license and who has not been licensed as a real estate salesperson during the pre-renewal period shall not be required to complete continuing education as a condition of license renewal. A person receiving an initial license as a real estate broker during the 90 days before the broker renewal date shall not be required to complete the broker management continuing education course provided for in subsection (b) of this Section as a condition of initial license renewal.

(d) The continuing education requirement for salespersons and brokers shall consist of a core curriculum and an elective curriculum, to be established by the Advisory Council. In meeting the continuing education requirements of this Act, at least 3 hours per year or their equivalent shall be required to be completed in the core curriculum. In establishing the core curriculum, the Advisory Council shall consider subjects that will educate licensees on recent changes in applicable laws and new laws and refresh the licensee on areas of the license law and OBRE policy that the Advisory Council deems appropriate, and any other areas that the Advisory Council deems timely and applicable in order to prevent violations of this Act and to protect the public. In establishing the elective curriculum, the Advisory Council shall consider subjects that cover the various aspects of the practice of real estate that are covered under the scope of this Act. However, the elective curriculum shall not include any offerings referred to in Section 5-85 of this Act.

(e) The subject areas of continuing education courses approved by the Advisory Council may include without limitation the following:

- (1) license law and escrow;
- (2) antitrust;
- (3) fair housing;
- (4) agency;
- (5) appraisal;
- (6) property management;
- (7) residential brokerage;

- (8) farm property management;
- (9) rights and duties of sellers, buyers, and brokers;
- (10) commercial brokerage and leasing; and
- (11) real estate financing.

(f) In lieu of credit for those courses listed in subsection (e) of this Section, credit may be earned for serving as a licensed instructor in an approved course of continuing education. The amount of credit earned for teaching a course shall be the amount of continuing education credit for which the course is approved for licensees taking the course.

(g) Credit hours may be earned for self-study programs approved by the Advisory Council.

(h) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

(i) No more than 6 hours of continuing education credit may be earned in one calendar day.

(j) To promote the offering of a uniform and consistent course content, the OBRE may provide for the development of a single broker management course to be offered by all continuing education providers who choose to offer the broker management continuing education course. The OBRE may contract for the development of the 6-hour broker management continuing education course with an outside vendor and, if the course is developed in this manner, the OBRE shall license the use of that course to all approved continuing education providers who wish to provide the course.

(Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/5-75)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-75. Out-of-state continuing education credit. If a renewal applicant has earned continuing education hours in another state or territory for which he or she is claiming credit toward full compliance in Illinois, the Advisory Council shall review, approve, or disapprove those hours based upon whether the course is one that would be approved under Section 5-70 of this Act, whether the course meets the basic requirements for continuing education under this Act, and any other criteria that is provided by statute or rule.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-80)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-80. Evidence of compliance with continuing education requirements.

(a) Each renewal applicant shall certify, on his or her

renewal application, full compliance with continuing education requirements set forth in Section 5-70. The continuing education school shall retain and submit to OBRE after the completion of each course evidence of those successfully completing the course as provided by rule.

(b) OBRE may require additional evidence demonstrating compliance with the continuing education requirements. The renewal applicant shall retain and produce the evidence of compliance upon request of OBRE.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/5-85)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5-85. Offerings not meeting continuing education requirements. The following offerings do not meet the continuing education requirements:

(1) Examination preparation offerings, except as provided in Section 5-70 of this Act.

(2) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, advertising, or psychology of sales.

(3) Sales promotion or other meetings held in conjunction with the general business of the attendee or his or her employer.

(4) Meetings that are a normal part of in-house staff or employee training.

The offerings listed in this Section do not limit the Advisory Council's authority to disapprove any course that fails to meet the standards of this Article 5 or rules adopted by OBRE.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/Art. 10 heading)

ARTICLE 10. COMPENSATION AND BUSINESS PRACTICES

(225 ILCS 454/10-5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-5. Payment of compensation.

(a) No licensee shall pay compensation directly to a licensee sponsored by another broker for the performance of licensed activities. No licensee sponsored by a broker may pay compensation to any licensee other than his or her sponsoring broker for the performance of licensed activities unless the

licensee paying the compensation is a principal to the transaction. However, a non-sponsoring broker may pay compensation directly to a licensee sponsored by another or a person who is not sponsored by a broker if the payments are made pursuant to terms of an employment agreement that was previously in place between a licensee and the non-sponsoring broker, and the payments are for licensed activity performed by that person while previously sponsored by the now non-sponsoring broker.

(b) No licensee sponsored by a broker shall accept compensation for the performance of activities under this Act except from the broker by whom the licensee is sponsored, except as provided in this Section.

(c) Any person that is a licensed personal assistant for another licensee may only be compensated in his or her capacity as a personal assistant by the sponsoring broker for that licensed personal assistant.

(d) One sponsoring broker may pay compensation directly to another sponsoring broker for the performance of licensed activities.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-10)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 10-10. Disclosure of compensation.

(a) A licensee must disclose to a client the sponsoring broker's compensation and policy with regard to cooperating with brokers who represent other parties in a transaction.

(b) A licensee must disclose to a client all sources of compensation related to the transaction received by the licensee from a third party.

(c) If a licensee refers a client to a third party in which the licensee has greater than a 1% ownership interest or from which the licensee receives or may receive dividends or other profit sharing distributions, other than a publicly held or traded company, for the purpose of the client obtaining services related to the transaction, then the licensee shall disclose that fact to the client at the time of making the referral.

(d) If in any one transaction a sponsoring broker receives compensation from both the buyer and seller or lessee and lessor of real estate, the sponsoring broker shall disclose in writing to a client the fact that the compensation is being paid by both buyer and seller or lessee and lessor.

(e) Nothing in the Act shall prohibit the cooperation with or a payment of compensation to a person not domiciled in this State or country who is licensed as a real estate broker in his or her state or country of domicile or to a resident of a country that does not require a person to be licensed to act as a real estate broker if the person complies with the laws of the country in which that person resides and practices there as a real estate broker.

(Source: P.A. 91-245, eff. 12-31-99; 92-217, eff. 8-2-01.)

(225 ILCS 454/10-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-15. No compensation to persons in violation of Act; compensation to unlicensed persons; consumer.

(a) No compensation may be paid to any unlicensed person in exchange for the person performing licensed activities in violation of this Act.

(b) No action or suit shall be instituted, nor recovery therein be had, in any court of this State by any person, partnership, registered limited liability partnership, limited liability company, or corporation for compensation for any act done or service performed, the doing or performing of which is prohibited by this Act to other than licensed brokers, salespersons, or leasing agents unless the person, partnership, registered limited liability partnership, limited liability company, or corporation was duly licensed hereunder as a broker, salesperson, or leasing agent under this Act at the time that any such act was done or service performed that would give rise to a cause of action for compensation.

(c) A licensee may offer compensation, including prizes, merchandise, services, rebates, discounts, or other consideration to an unlicensed person who is a party to a contract to buy or sell real estate or is a party to a contract for the lease of real estate, so long as the offer complies with the provisions of subdivision (26) of subsection (h) of Section 20-20 of this Act.

(d) A licensee may offer cash, gifts, prizes, awards, coupons, merchandise, rebates or chances to win a game of chance, if not prohibited by any other law or statute, to a consumer as an inducement to that consumer to use the services of the licensee even if the licensee and consumer do not ultimately enter into a broker-client relationship so long as the offer complies with the provisions of subdivision (26) of subsection (h) of Section 20-20 of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-20. Sponsoring broker; employment agreement.

(a) A licensee may perform activities as a licensee only for his or her sponsoring broker. A licensee must have only one sponsoring broker at any one time.

(b) Every broker who employs licensees or has an independent contractor relationship with a licensee shall have a written employment agreement with each such licensee. The broker having this written employment agreement with the licensee must be that licensee's sponsoring broker.

(c) Every sponsoring broker must have a written employment agreement with each licensee the broker sponsors. The agreement shall address the employment or independent contractor relationship terms, including without limitation supervision, duties, compensation, and termination.

(d) Every sponsoring broker must have a written employment agreement with each licensed personal assistant who assists a licensee sponsored by the sponsoring broker. This requirement applies to all licensed personal assistants whether or not they perform licensed activities in their capacity as a personal assistant. The agreement shall address the employment or independent contractor relationship terms, including without limitation supervision, duties, compensation, and termination.

(e) Notwithstanding the fact that a sponsoring broker has an employment agreement with a licensee, a sponsoring broker may pay compensation directly to a corporation solely owned by that licensee that has been formed for the purpose of receiving compensation earned by the licensee. A corporation formed for the purpose herein stated in this subsection (e) shall not be required to be licensed under this Act so long as the person who is the sole shareholder of the corporation is licensed.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-25. Expiration of brokerage agreement. No licensee shall obtain any written brokerage agreement that does not provide for automatic expiration within a definite period of time. No notice of termination at the final expiration thereof shall be required. Any written brokerage agreement not containing a provision for automatic expiration shall be void. When the license of any sponsoring broker is suspended or revoked, any brokerage agreement with the sponsoring broker shall be deemed to expire upon the effective date of the suspension or revocation.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-27)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-27. Disclosure of licensee status. Each licensee shall disclose, in writing, his or her status as a licensee to all parties in a transaction when the licensee is selling, leasing, or purchasing any interest, direct or indirect, in the real estate that is the subject of the transaction.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10-30. Advertising.

(a) No advertising shall be fraudulent, deceptive, inherently misleading, or proven to be misleading in practice. It shall be considered misleading or untruthful if, when taken as a whole, there is a distinct and reasonable possibility that it will be misunderstood or will deceive the ordinary purchaser, seller, lessee, lessor, or owner. Advertising shall contain all information necessary to communicate the information contained therein to the public in a direct and readily comprehensible manner.

(b) No blind advertisements may be used by any licensee except as provided for in this Section.

(c) A licensee shall disclose, in writing, to all parties in a transaction his or her status as a licensee and any and all interest the licensee has or may have in the real estate constituting the subject matter thereof, directly or indirectly, according to the following guidelines:

(1) On broker yard signs or in broker advertisements, no disclosure of ownership is necessary. However, the ownership shall be indicated on any property data form and disclosed to persons responding to any advertisement or any sign. The term "broker owned" or "agent owned" is sufficient disclosure.

(2) A sponsored or inoperative licensee selling or leasing property, owned solely by the sponsored or inoperative licensee, without utilizing brokerage services of their sponsoring broker or any other licensee, may advertise "By Owner". For purposes of this Section, property is "solely owned" by a sponsored or inoperative licensee if he or she (i) has a 100% ownership interest alone, (ii) has ownership as a joint tenant or tenant by the entirety, or (iii) holds a 100% beneficial interest in a land trust. Sponsored or inoperative licensees selling or leasing "By Owner" shall comply with the following if advertising by owner:

(A) On "By Owner" yard signs, the sponsored or inoperative licensee shall indicate "broker owned" or "agent owned." "By Owner" advertisements used in any medium of advertising shall include the term "broker owned" or "agent owned."

(B) If a sponsored or inoperative licensee runs advertisements, for the purpose of purchasing or leasing real estate, he or she shall disclose in the advertisements his or her status as a licensee.

(C) A sponsored or inoperative licensee shall not use the sponsoring broker's name or the sponsoring broker's company name in connection with the sale, lease, or advertisement of the property nor utilize the sponsoring broker's or company's name in

connection with the sale, lease, or advertising of the property in a manner likely to create confusion among the public as to whether or not the services of a real estate company are being utilized or whether or not a real estate company has an ownership interest in the property.

(d) A sponsored licensee may not advertise under his or her own name. Advertising shall be under the direct supervision of the sponsoring or managing broker and in the sponsoring broker's business name, which in the case of a franchise shall include the franchise affiliation as well as the name of the individual firm. This provision does not apply under the following circumstances:

(1) When a licensee enters into a brokerage agreement relating to his or her own real estate, or real estate in which he or she has an ownership interest, with another licensed broker; or

(2) When a licensee is selling or leasing his or her own real estate or buying or leasing real estate for himself or herself, after providing the appropriate written disclosure of his or her ownership interest as required in paragraph (2) of subsection (c) of this Section.

(e) No licensee shall list his or her name under the heading or title "Real Estate" in the telephone directory or otherwise advertise in his or her own name to the general public through any medium of advertising as being in the real estate business without listing his or her sponsoring broker's business name.

(f) The sponsoring broker's business name and the name of the licensee must appear in all advertisements, including business cards. Nothing in this Act shall be construed to require specific print size as between the broker's business name and the name of the licensee.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/Art. 15 heading)

ARTICLE 15. AGENCY RELATIONSHIPS

(225 ILCS 454/15-5)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 15-5. Legislative intent.

(a) The General Assembly finds that application of the common law of agency to the relationships among real estate brokers and salespersons and consumers of real estate brokerage services has resulted in misunderstandings and consequences that have been contrary to the best interests of

the public. The General Assembly further finds that the real estate brokerage industry has a significant impact upon the economy of the State of Illinois and that it is in the best interest of the public to provide codification of the relationships between real estate brokers and salespersons and consumers of real estate brokerage services in order to prevent detrimental misunderstandings and misinterpretations of the relationships by consumers, real estate brokers, and salespersons and thus promote and provide stability in the real estate market. This Article 15 is enacted to govern the relationships between consumers of real estate brokerage services and real estate brokers and salespersons to the extent not governed by an individual written agreement between a sponsoring broker and a consumer, providing that there is a relationship other than designated agency. This Article 15 applies to the exclusion of the common law concepts of principal and agent and to the fiduciary duties, which have been applied to real estate brokers, salespersons, and real estate brokerage services.

(b) The General Assembly further finds that this Article 15 is not intended to prescribe or affect contractual relationships between real estate brokers and the broker's affiliated licensees.

(c) This Article 15 may serve as a basis for private rights of action and defenses by sellers, buyers, landlords, tenants, real estate brokers, and real estate salespersons. The private rights of action, however, do not extend to the provisions of any other Articles of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-10. Relationships between licensees and consumers. Licensees shall be considered to be representing the consumer they are working with as a designated agent for the consumer unless:

(1) there is a written agreement between the sponsoring broker and the consumer providing that there is a different relationship; or

(2) the licensee is performing only ministerial acts on behalf of the consumer.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-15. Duties of licensees representing clients.

(a) A licensee representing a client shall:

(1) Perform the terms of the brokerage agreement between a broker and the client.

(2) Promote the best interest of the client by:

(A) Seeking a transaction at the price and terms stated in the brokerage agreement or at a price and terms otherwise acceptable to the client.

(B) Timely presenting all offers to and from the client, unless the client has waived this duty.

(C) Disclosing to the client material facts concerning the transaction of which the licensee has actual knowledge, unless that information is confidential information. Material facts do not include the following when located on or related to real estate that is not the subject of the transaction: (i) physical conditions that do not have a substantial adverse effect on the value of the real estate, (ii) fact situations, or (iii) occurrences.

(D) Timely accounting for all money and property received in which the client has, may have, or should have had an interest.

(E) Obeying specific directions of the client that are not otherwise contrary to applicable statutes, ordinances, or rules.

(F) Acting in a manner consistent with promoting the client's best interests as opposed to a licensee's or any other person's self-interest.

(3) Exercise reasonable skill and care in the performance of brokerage services.

(4) Keep confidential all confidential information received from the client.

(5) Comply with all requirements of this Act and all applicable statutes and regulations, including without limitation fair housing and civil rights statutes.

(b) A licensee representing a client does not breach a duty or obligation to the client by showing alternative properties to prospective buyers or tenants or by showing properties in which the client is interested to other prospective buyers or tenants.

(c) A licensee representing a buyer or tenant client will not be presumed to have breached a duty or obligation to that client by working on the basis that the licensee will receive a higher fee or compensation based on higher selling price or lease cost.

(d) A licensee shall not be liable to a client for providing false information to the client if the false information was provided to the licensee by a customer unless the licensee knew or should have known the information was false.

(e) Nothing in the Section shall be construed as changing a licensee's duty under common law as to negligent or fraudulent misrepresentation of material information.

(Source: P.A. 91-245, eff. 12-31-99.)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-20. Failure to disclose information not affecting physical condition. No cause of action shall arise against a licensee for the failure to disclose: (i) that an occupant of the property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition; (ii) that the property was the site of an act or occurrence that had no effect on the physical condition of the property or its environment or the structures located thereon; (iii) fact situations on property that is not the subject of the transaction; or (iv) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction.

(Source: P.A. 91-245, eff. 12-31-99; 92-16, eff. 6-28-01.)

(225 ILCS 454/15-25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-25. Licensee's relationship with customers.

(a) Licensees shall treat all customers honestly and shall not negligently or knowingly give them false information. A licensee engaged by a seller client shall timely disclose to customers who are prospective buyers all latent material adverse facts pertaining to the physical condition of the property that are actually known by the licensee and that could not be discovered by a reasonably diligent inspection of the property by the customer. A licensee shall not be liable to a customer for providing false information to the customer if the false information was provided to the licensee by the licensee's client and the licensee did not have actual knowledge that the information was false. No cause of action shall arise on behalf of any person against a licensee for revealing information in compliance with this Section.

(b) A licensee representing a client in a real estate transaction may provide assistance to a customer by performing ministerial acts. Performing those ministerial acts shall not be construed in a manner that would violate the brokerage agreement with the client, and performing those ministerial acts for the customer shall not be construed in a manner as to form a brokerage agreement with the customer.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-30. Duties after termination of brokerage agreement. Except as may be provided in a written agreement between the broker and the client, neither a sponsoring broker nor any licensee affiliated with the sponsoring broker owes any further duties to the client after termination,

expiration, or completion of performance of the brokerage agreement, except:

- (1) to account for all moneys and property relating to the transaction; and
- (2) to keep confidential all confidential information received during the course of the brokerage agreement.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-35)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 15-35. Agency relationship disclosure.

(a) A consumer shall be advised of the following no later than entering into a brokerage agreement with the sponsoring broker:

- (1) That a designated agency relationship exists, unless there is written agreement between the sponsoring broker and the consumer providing for a different brokerage relationship.

- (2) The name or names of his or her designated agent or agents in writing.

- (3) The sponsoring broker's compensation and policy with regard to cooperating with brokers who represent other parties in a transaction.

(b) A licensee shall disclose in writing to a customer that the licensee is not acting as the agent of the customer at a time intended to prevent disclosure of confidential information from a customer to a licensee, but in no event later than the preparation of an offer to purchase or lease real property. This subsection (b) does not apply to residential lease or rental transactions unless the lease or rental agreement includes an option to purchase real estate.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-40)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 15-40. Compensation does not determine agency.

Compensation does not determine agency relationship. The payment or promise of payment of compensation to a licensee is not determinative of whether an agency relationship has been created between any licensee and a consumer.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-45)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-45. Dual agency.

(a) A licensee may act as a dual agent only with the informed written consent of all clients. Informed written consent shall be presumed to have been given by any client who signs a document that includes the following:

"The undersigned (insert name(s)), ("Licensee"), may undertake a dual representation (represent both the seller or landlord and the buyer or tenant) for the sale or lease of property. The undersigned acknowledge they were informed of the possibility of this type of representation. Before signing this document please read the following: Representing more than one party to a transaction presents a conflict of interest since both clients may rely upon Licensee's advice and the client's respective interests may be adverse to each other. Licensee will undertake this representation only with the written consent of ALL clients in the transaction. Any agreement between the clients as to a final contract price and other terms is a result of negotiations between the clients acting in their own best interests and on their own behalf. You acknowledge that Licensee has explained the implications of dual representation, including the risks involved, and understand that you have been advised to seek independent advice from your advisors or attorneys before signing any documents in this transaction.

WHAT A LICENSEE CAN DO FOR CLIENTS  
WHEN ACTING AS A DUAL AGENT

1. Treat all clients honestly.
2. Provide information about the property to the buyer or tenant.
3. Disclose all latent material defects in the property that are known to the Licensee.
4. Disclose financial qualification of the buyer or tenant to the seller or landlord.
5. Explain real estate terms.
6. Help the buyer or tenant to arrange for property inspections.
7. Explain closing costs and procedures.
8. Help the buyer compare financing alternatives.
9. Provide information about comparable properties that have sold so both clients may make educated decisions on what price to accept or offer.

WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN  
ACTING AS A DUAL AGENT

1. Confidential information that Licensee may know about a client, without that client's permission.
2. The price the seller or landlord will take other than the listing price without permission of the seller or landlord.
3. The price the buyer or tenant is willing to pay without permission of the buyer or tenant.
4. A recommended or suggested price the buyer or tenant should offer.
5. A recommended or suggested price the seller or landlord should counter with or accept.

If either client is uncomfortable with this

disclosure and dual representation, please let Licensee know. You are not required to sign this document unless you want to allow Licensee to proceed as a Dual Agent in this transaction. By signing below, you acknowledge that you have read and understand this form and voluntarily consent to Licensee acting as a Dual Agent (that is, to represent BOTH the seller or landlord and the buyer or tenant) should that become necessary."

(b) The dual agency disclosure form provided for in subsection (a) of this Section must be presented by a licensee, who offers dual representation, to the client at the time the brokerage agreement is entered into and may be signed by the client at that time or at any time before the licensee acts as a dual agent as to the client.

(c) A licensee acting in a dual agency capacity in a transaction must obtain a written confirmation from the licensee's clients of their prior consent for the licensee to act as a dual agent in the transaction. This confirmation should be obtained at the time the clients are executing any offer or contract to purchase or lease in a transaction in which the licensee is acting as a dual agent. This confirmation may be included in another document, such as a contract to purchase, in which case the client must not only sign the document but also initial the confirmation of dual agency provision. That confirmation must state, at a minimum, the following:

"The undersigned confirm that they have previously consented to (insert name(s)), ("Licensee"), acting as a Dual Agent in providing brokerage services on their behalf and specifically consent to Licensee acting as a Dual Agent in regard to the transaction referred to in this document."

(d) No cause of action shall arise on behalf of any person against a dual agent for making disclosures allowed or required by this Article, and the dual agent does not terminate any agency relationship by making the allowed or required disclosures.

(e) In the case of dual agency, each client and the licensee possess only actual knowledge and information. There shall be no imputation of knowledge or information among or between clients, brokers, or their affiliated licensees.

(f) In any transaction, a licensee may without liability withdraw from representing a client who has not consented to a disclosed dual agency. The withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction or limit the licensee from representing the client in other transactions. When a withdrawal as contemplated in this subsection (f) occurs, the licensee shall not receive a referral fee for referring a client to another licensee unless written disclosure is made to both the withdrawing client and the client that continues to be represented by the licensee.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-50)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-50. Designated agency.

(a) A sponsoring broker entering into an agreement with any person for the listing of property or for the purpose of representing any person in the buying, selling, exchanging, renting, or leasing of real estate may specifically designate those licensees employed by or affiliated with the sponsoring broker who will be acting as legal agents of that person to the exclusion of all other licensees employed by or affiliated with the sponsoring broker. A sponsoring broker entering into an agreement under the provisions of this Section shall not be considered to be acting for more than one party in a transaction if the licensees specifically designated as legal agents of a person are not representing more than one party in a transaction.

(b) A sponsoring broker designating affiliated licensees to act as agents of clients shall take ordinary and necessary care to protect confidential information disclosed by a client to his or her designated agent.

(c) A designated agent may disclose to his or her sponsoring broker or persons specified by the sponsoring broker confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction. Confidential information shall not be disclosed by the sponsoring broker or other specified representative of the sponsoring broker unless otherwise required by this Act or requested or permitted by the client who originally disclosed the confidential information.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-55. No subagency. A broker is not considered to be a subagent of a client of another broker solely by reason of membership or other affiliation by the brokers in a multiple listing service or other similar information source, and an offer of subagency may not be made through a multiple listing service or other similar information source.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-60. Vicarious liability. A consumer shall not be vicariously liable for the acts or omissions of a licensee in providing licensed activities for or on behalf of the consumer.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-65)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-65. Regulatory enforcement. Nothing contained in this Article limits OBRE in its regulation of licensees under other Articles of this Act and the substantive rules adopted by OBRE. OBRE, with the advice of the Board, is authorized to promulgate any rules that may be necessary for the implementation and enforcement of this Article 15.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-70. Actions for damages.

(a) In any action brought under this Article 15, the court may, in its discretion, award only actual damages and court costs or grant injunctive relief, when appropriate.

(b) Any action under this Article 15 shall be forever barred unless commenced within 2 years after the person bringing the action knew or should reasonably have known of such act or omission. In no event shall the action be brought more than 5 years after the date on which the act or omission occurred. If the person entitled to bring the action is under the age of 18 or under legal disability the period of limitations shall not begin to run until the disability is removed.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/15-75)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15-75. Exclusive brokerage agreements. All exclusive brokerage agreements must specify that the sponsoring broker, through one or more sponsored licensees, must provide, at a minimum, the following services:

(1) accept delivery of and present to the client offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease;

(2) assist the client in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and

(3) answer the client's questions relating to the offers, counteroffers, notices, and contingencies.

(Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/Art. 20 heading)

ARTICLE 20. DISCIPLINARY PROVISIONS

(225 ILCS 454/20-5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-5. Index of decisions. OBRE shall maintain an index of formal decisions regarding the issuance, refusal to issue, renewal, refusal to renew, revocation, and suspension of licenses and probationary or other disciplinary action taken under this Act on or after December 31, 1999. The decisions shall be indexed according to the Sections of statutes and the administrative rules, if any, that are the basis for the decision. The index shall be available to the public during regular business hours.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-10. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice as a real estate broker, real estate salesperson, or leasing agent without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil fine to OBRE in an amount not to exceed \$25,000 for each offense as determined by OBRE. The civil fine shall be assessed by OBRE after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a license.

(b) OBRE has the authority and power to investigate any and all unlicensed activity.

(c) The civil fine shall be paid within 60 days after the effective date of the order imposing the civil fine. The order shall constitute a judgement and may be filed and execution had thereon in the same manner from any court of record.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-15. Violations. The commission of a single act prohibited by this Act or prohibited by the rules promulgated under this Act or a violation of a disciplinary order issued under this Act constitutes a violation of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-20. Disciplinary actions; causes. OBRE may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, or may censure, reprimand, or otherwise discipline or impose a civil fine not to exceed \$25,000 upon any licensee hereunder for any one or any combination of the following causes:

(a) When the applicant or licensee has, by false or fraudulent representation, obtained or sought to obtain a license.

(b) When the applicant or licensee has been convicted of any crime, an essential element of which is dishonesty or fraud or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, has been convicted in this or another state of a crime that is a felony under the laws of this State, or has been convicted of a felony in a federal court.

(c) When the applicant or licensee has been adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the Mental Health and Developmental Disabilities Code.

(d) When the licensee performs or attempts to perform any act as a broker or salesperson in a retail sales establishment from an office, desk, or space that is not separated from the main retail business by a separate and distinct area within the establishment.

(e) Discipline of a licensee by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for discipline set forth in this Act, in which case the only issue will be whether one of the grounds for that discipline is the same or equivalent to one of the grounds for discipline under this Act.

(f) When the applicant or licensee has engaged in real estate activity without a license or after the licensee's license was expired or while the license was inoperative.

(g) When the applicant or licensee attempts to subvert or cheat on the Real Estate License Exam or continuing education exam or aids and abets an applicant to subvert or cheat on the Real Estate License Exam or continuing education exam

administered pursuant to this Act.

(h) When the licensee in performing, attempting to perform, or pretending to perform any act as a broker, salesperson, or leasing agent or when the licensee in handling his or her own property, whether held by deed, option, or otherwise, is found guilty of:

(1) Making any substantial misrepresentation or untruthful advertising.

(2) Making any false promises of a character likely to influence, persuade, or induce.

(3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through licensees, employees, agents, advertising, or otherwise.

(4) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(5) Acting for more than one party in a transaction without providing written notice to all parties for whom the licensee acts.

(6) Representing or attempting to represent a broker other than the sponsoring broker.

(7) Failure to account for or to remit any moneys or documents coming into his or her possession that belong to others.

(8) Failure to maintain and deposit in a special account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others or failure to maintain all escrow moneys on deposit in the account until the transactions are consummated or terminated, except to the extent that the moneys, or any part thereof, shall be disbursed prior to the consummation or termination in accordance with (i) the written direction of the principals to the transaction or their duly authorized agents, (ii) directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents, or (iii) pursuant to an order of a court of competent jurisdiction. The account shall be noninterest bearing, unless the character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

(9) Failure to make available to the real estate enforcement personnel of OBRE during normal business hours all escrow records and related documents maintained in connection with the practice of real estate within 24 hours of a request for those documents by OBRE personnel.

(10) Failing to furnish copies upon request of all documents relating to a real estate transaction to all parties executing them.

(11) Failure of a sponsoring broker to timely provide information, sponsor cards, or termination of

licenses to OBRE.

(12) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(13) Commingling the money or property of others with his or her own.

(14) Employing any person on a purely temporary or single deal basis as a means of evading the law regarding payment of commission to nonlicensees on some contemplated transactions.

(15) Permitting the use of his or her license as a broker to enable a salesperson or unlicensed person to operate a real estate business without actual participation therein and control thereof by the broker.

(16) Any other conduct, whether of the same or a different character from that specified in this Section, that constitutes dishonest dealing.

(17) Displaying a "for rent" or "for sale" sign on any property without the written consent of an owner or his or her duly authorized agent or advertising by any means that any property is for sale or for rent without the written consent of the owner or his or her authorized agent.

(18) Failing to provide information requested by OBRE, within 30 days of the request, either as the result of a formal or informal complaint to OBRE or as a result of a random audit conducted by OBRE, which would indicate a violation of this Act.

(19) Advertising by means of a blind advertisement, except as otherwise permitted in Section 10-30 of this Act.

(20) Offering guaranteed sales plans, as defined in clause (A) of this subdivision (20), except to the extent hereinafter set forth:

(A) A "guaranteed sales plan" is any real estate purchase or sales plan whereby a licensee enters into a conditional or unconditional written contract with a seller by the terms of which a licensee agrees to purchase a property of the seller within a specified period of time at a specific price in the event the property is not sold in accordance with the terms of a listing contract between the sponsoring broker and the seller or on other terms acceptable to the seller.

(B) A licensee offering a guaranteed sales plan shall provide the details and conditions of the plan in writing to the party to whom the plan is offered.

(C) A licensee offering a guaranteed sales plan shall provide to the party to whom the plan is offered evidence of sufficient financial resources to satisfy the commitment to purchase undertaken by the broker in the plan.

(D) Any licensee offering a guaranteed sales plan shall undertake to market the property of the seller subject to the plan in the same manner in which the broker would market any other property, unless the agreement with the seller provides otherwise.

(E) Any licensee who fails to perform on a guaranteed sales plan in strict accordance with its terms shall be subject to all the penalties provided in this Act for violations thereof and, in addition, shall be subject to a civil fine payable to the party injured by the default in an amount of up to \$25,000.

(21) Influencing or attempting to influence, by any words or acts, a prospective seller, purchaser, occupant, landlord, or tenant of real estate, in connection with viewing, buying, or leasing real estate, so as to promote or tend to promote the continuance or maintenance of racially and religiously segregated housing or so as to retard, obstruct, or discourage racially integrated housing on or in any street, block, neighborhood, or community.

(22) Engaging in any act that constitutes a violation of any provision of Article 3 of the Illinois Human Rights Act, whether or not a complaint has been filed with or adjudicated by the Human Rights Commission.

(23) Inducing any party to a contract of sale or lease or brokerage agreement to break the contract of sale or lease or brokerage agreement for the purpose of substituting, in lieu thereof, a new contract for sale or lease or brokerage agreement with a third party.

(24) Negotiating a sale, exchange, or lease of real estate directly with any person if the licensee knows that the person has a written exclusive brokerage agreement with another broker, unless specifically authorized by that broker.

(25) When a licensee is also an attorney, acting as the attorney for either the buyer or the seller in the same transaction in which the licensee is acting or has acted as a broker or salesperson.

(26) Advertising or offering merchandise or services as free if any conditions or obligations necessary for receiving the merchandise or services are not disclosed in the same advertisement or offer. These conditions or obligations include without limitation the requirement that the recipient attend a promotional activity or visit a real estate site. As used in this subdivision (26), "free" includes terms such as "award", "prize", "no charge", "free of charge", "without charge", and similar words or phrases that reasonably lead a person to believe that he or she may receive or has been selected to receive something of value, without any conditions or obligations on the part of the recipient.

(27) Disregarding or violating any provision of the Land Sales Registration Act of 1989, the Illinois Real Estate Time-Share Act, or the published rules promulgated by OBRE to enforce those Acts.

(28) Violating the terms of a disciplinary order issued by OBRE.

(29) Paying compensation in violation of Article 10 of this Act.

(30) Requiring a party to a transaction who is not a client of the licensee to allow the licensee to retain a

portion of the escrow moneys for payment of the licensee's commission or expenses as a condition for release of the escrow moneys to that party.

(31) Disregarding or violating any provision of this Act or the published rules promulgated by OBRE to enforce this Act or aiding or abetting any individual, partnership, registered limited liability partnership, limited liability company, or corporation in disregarding any provision of this Act or the published rules promulgated by OBRE to enforce this Act.

(32) Failing to provide the minimum services required by Section 15-75 of this Act when acting under an exclusive brokerage agreement.

(Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/20-25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-25. Returned checks; fees. Any person who delivers a check or other payment to OBRE that is returned to OBRE unpaid by the financial institution upon which it is drawn shall pay to OBRE, in addition to the amount already owed to OBRE, a fee of \$50. OBRE shall notify the person that payment of fees and fines shall be paid to OBRE by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, OBRE shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to OBRE for restoration or issuance of the license and pay all fees and fines due to OBRE. OBRE may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Commissioner may waive the fees due under this Section in individual cases where the Commissioner finds that the fees would be unreasonable or unnecessarily burdensome.

(Source: P.A. 91-245, eff. 12-31-99; 92-146, eff. 1-1-02.)

(225 ILCS 454/20-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-30. Standards of practice of leasing agents; disciplinary procedures. OBRE may by rule, with the advice of the Board, prescribe standards of practice to be followed by licensed leasing agents. Standards of practice shall include without limitation acts or omissions that leasing agents are prohibited from engaging in, disciplinary procedures, and penalties for violating provisions of this Act. Disciplinary procedures shall conform with disciplinary procedures for licensed real estate brokers and salespersons. Complaints

shall be heard as provided for in this Act.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-35)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-35. Violations of tax Acts. OBRE may refuse to issue or renew or may suspend the license of any person who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-40. Disciplinary action for educational loan defaults. OBRE shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State; however, OBRE may issue a license or renewal if the person has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission or other appropriate governmental agency of this State. Additionally, a license issued by OBRE may be suspended or revoked if the Commissioner, after the opportunity for a hearing under this Article, finds that the licensee has failed to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted loan.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-45)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-45. Nonpayment of child support. In cases in which the Department of Public Aid has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to OBRE, OBRE may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Public Aid. Redetermination of the delinquency by OBRE shall not be required. In cases regarding the renewal of a license, OBRE shall not renew any license if

the Department of Public Aid has certified the licensee to be more than 30 days delinquent in the payment of child support unless the licensee has arranged for payment of past and current child support obligations in a manner satisfactory to the Department of Public Aid. OBRE may impose conditions, restrictions, or disciplinary action upon that renewal.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-50)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-50. Illegal discrimination. When there has been an adjudication in a civil or criminal proceeding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, OBRE, upon the recommendation of the Board as to the extent of the suspension or revocation, shall suspend or revoke the license of that licensee in a timely manner, unless the adjudication is in the appeal process. When there has been an order in an administrative proceeding finding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, OBRE, upon recommendation of the Board as to the nature and extent of the discipline, shall take one or more of the disciplinary actions provided for in Section 20-20 of this Act in a timely manner, unless the administrative order is in the appeal process.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-55. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act, the notice required under the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-60. Hearing; investigation; notice; disciplinary consent order.

(a) OBRE may conduct hearings through the Board or a duly appointed hearing officer on proceedings to suspend, revoke, or to refuse to issue or renew licenses of persons applying for licensure or licensed under this Act or to censure, reprimand, or impose a civil fine not to exceed \$25,000 upon any licensee hereunder and may revoke, suspend, or refuse to issue or renew these licenses or censure, reprimand, or impose a civil fine not to exceed \$25,000 upon any licensee hereunder.

(b) Upon the motion of either OBRE or the Board or upon the verified complaint in writing of any persons setting forth facts that if proven would constitute grounds for suspension or revocation under this Act, OBRE, the Board, or its subcommittee shall cause to be investigated the actions of any person so accused who holds a license or is holding himself or herself out to be a licensee. This person is hereinafter called the accused.

(c) Prior to initiating any formal disciplinary proceedings resulting from an investigation conducted pursuant to subsection (b) of this Section, that matter shall be reviewed by a subcommittee of the Board according to procedures established by rule. The subcommittee shall make a recommendation to the full Board as to the validity of the complaint and may recommend that the Board not proceed with formal disciplinary proceedings if the complaint is determined to be frivolous or without merit.

(d) Except as provided for in Section 20-65 of this Act, OBRE shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as OBRE may deem proper with regard to any license:

(1) notify the accused in writing at least 30 days prior to the date set for the hearing of any charges made and the time and place for the hearing of the charges to be heard before the Board under oath; and

(2) inform the accused that upon failure to file an answer and request a hearing before the date originally set for the hearing, default will be taken against the accused and his or her license may be suspended, revoked, or placed on probationary status, or other disciplinary action, including limiting the scope, nature, or extent of the accused's practice, as OBRE may deem proper, may be taken with regard thereto.

In case the person fails to file an answer after receiving notice, his or her license may, in the discretion of OBRE, be suspended, revoked, or placed on probationary status, or OBRE may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(e) At the time and place fixed in the notice, the Board shall proceed to hearing of the charges and both the accused person and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony,

evidence and argument as may be pertinent to the charges or to any defense thereto. The Board or its hearing officer may continue a hearing date upon its own motion or upon an accused's motion for one period not to exceed 30 days. The Board or its hearing officer may grant further continuances for periods not to exceed 30 days only upon good cause being shown by the moving party. The non-moving party shall have the opportunity to object to a continuance on the record at a hearing upon the motion to continue. All motions for continuances and any denial or grant thereof shall be in writing. All motions shall be submitted not later than 48 hours before the scheduled hearing unless made upon an emergency basis. In determining whether good cause for a continuance is shown, the Board or its hearing officer shall consider such factors as the volume of cases pending, the nature and complexity of legal issues raised, the diligence of the party making the request, the availability of party's legal representative or witnesses, and the number of previous requests for continuance.

(f) Any unlawful act or violation of any of the provisions of this Act upon the part of any licensees employed by a real estate broker or associated by written agreement with the real estate broker, or unlicensed employee of a licensed broker, shall not be cause for the revocation of the license of any such broker, partial or otherwise, unless it appears to the satisfaction of OBRE that the broker had knowledge thereof.

(g) OBRE or the Board has power to subpoena any persons or documents for the purpose of investigation or hearing with the same fees and mileage and in the same manner as prescribed by law for judicial procedure in civil cases in courts of this State. The Commissioner, the Director, any member of the Board, a certified court reporter, or a hearing officer shall each have power to administer oaths to witnesses at any hearing which OBRE is authorized under this Act to conduct.

(h) Any circuit court or any judge thereof, upon the application of the accused person, complainant, OBRE, or the Board, may, by order entered, require the attendance of witnesses and the production of relevant books and papers before the Board in any hearing relative to the application for or refusal, recall, suspension, or revocation of a license, and the court or judge may compel obedience to the court's or the judge's order by proceedings for contempt.

(i) OBRE, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or the revocation, suspension, or other discipline of a licensee. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the orders of OBRE shall be the record of the proceeding. At all hearings or pre-hearing conferences, OBRE and the accused shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or pre-hearing conference at the expense of the party requesting the court reporter's attendance. A copy of the transcribed proceeding shall be available to the other party for the cost of a copy of the transcript.

(j) The Board shall present to the Commissioner its written report of its findings and recommendations. A copy of the report shall be served upon the accused, either personally or by certified mail as provided in this Act for the service of the citation. Within 20 days after the service, the accused may present to the Commissioner a motion in writing for a rehearing that shall specify the particular grounds therefor. If the accused shall order and pay for a transcript of the record as provided in this Act, the time elapsing thereafter and before the transcript is ready for delivery to the accused shall not be counted as part of the 20 days. Whenever the Commissioner is satisfied that substantial justice has not been done, the Commissioner may order a rehearing by the Board or other special committee appointed by the Commissioner or may remand the matter to the Board for their reconsideration of the matter based on the pleadings and evidence presented to the Board. In all instances, under this Act, in which the Board has rendered a recommendation to the Commissioner with respect to a particular licensee or applicant, the Commissioner shall, in the event that he or she disagrees with or takes action contrary to the recommendation of the Board, file with the Board and the Secretary of State his specific written reasons of disagreement with the Board. The reasons shall be filed within 60 days of the Board's recommendation to the Commissioner and prior to any contrary action. At the expiration of the time specified for filing a motion for a rehearing, the Commissioner shall have the right to take the action recommended by the Board. Upon the suspension or revocation of a license, the licensee shall be required to surrender his or her license to OBRE, and upon failure or refusal to do so, OBRE shall have the right to seize the license.

(k) At any time after the suspension, temporary suspension, or revocation of any license, OBRE may restore it to the accused without examination, upon the written recommendation of the Board.

(l) An order of revocation or suspension or a certified copy thereof, over the seal of OBRE and purporting to be signed by the Commissioner, shall be prima facie proof that:

- (1) The signature is the genuine signature of the Commissioner.
- (2) The Commissioner is duly appointed and qualified.
- (3) The Board and the members thereof are qualified.

Such proof may be rebutted.

(m) Notwithstanding any provisions concerning the conduct of hearings and recommendations for disciplinary actions, OBRE as directed by the Commissioner has the authority to negotiate agreements with licensees and applicants resulting in disciplinary consent orders. These consent orders may provide for any of the forms of discipline provided in this Act. These consent orders shall provide that they were not entered into as a result of any coercion by OBRE. Any such consent order shall be filed with the Commissioner along with the Board's recommendation and accepted or rejected by the Commissioner within 60 days of the Board's recommendation.

(Source: P.A. 91-245, eff. 12-31-99; 92-217, eff. 8-2-01.)

(225 ILCS 454/20-65)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-65. Temporary suspension. The Commissioner may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 20-60 of this Act, if the Commissioner finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. In the event that the Commissioner temporarily suspends the license without a hearing before the Board, a hearing shall be held within 30 days after the suspension has occurred. The suspended licensee may seek a continuance of the hearing during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-70)

Sec. 20-70. (Repealed).

(Source: P.A. 91-245, eff. 12-31-99. Repealed by P.A. 92-217, eff. 8-2-01.)

(225 ILCS 454/20-75)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-75. Administrative Review Law; certification fee; summary report of final disciplinary actions. All final administrative decisions of OBRE shall be subject to judicial review pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant thereto. The term "administrative decision" is defined in Section 3-101 of the Administrative Review Law. OBRE shall not be required to certify any record or file any answer or otherwise appear unless the party filing the complaint pays to OBRE the certification fee provided for by rule representing costs of the certification. Failure on the part of the plaintiff to make such a deposit shall be grounds for dismissal of the action. OBRE shall prepare from time to time, but in no event less often than once every other month, a summary report of final disciplinary actions taken since the previous summary report. The summary report shall contain a brief description of the action that brought about the discipline and the final disciplinary action taken. The summary report shall be made available upon request.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-80)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-80. Penalties; injunction. Any person violating any provision of this Act other than subdivision (4) of subsection (h) of Section 20-20 and other than Section 5-15 or any person failing to account for or to remit any moneys coming into his or her possession that belong to others or commingling the money or other property of his or her principal with his or her own, upon conviction for the first offense, is guilty of a Class C misdemeanor, and if a limited liability company, registered limited liability partnership, or corporation, is guilty of a business offense and shall be fined not to exceed \$2,000. Upon conviction of a second or subsequent offense the violator, if an individual, is guilty of a Class A misdemeanor, and if a limited liability company, registered limited liability partnership, or corporation, is guilty of a business offense and shall be fined not less than \$2,000 nor more than \$5,000. Any person, limited liability company, registered limited liability partnership, or corporation violating any provision of Section 5-15 of this Act, upon conviction for the first offense, if an individual, is guilty of a Class A misdemeanor, and if a limited liability company, registered limited liability partnership, or corporation, is guilty of a business offense and shall be fined not to exceed \$10,000. Upon conviction of a second or subsequent offense the violator, if an individual, is guilty of a Class 4 felony, and if a limited liability company, registered limited liability partnership, or corporation, is guilty of a business offense and shall be fined not less than \$10,000 nor more than \$25,000. Any officer or agent of a corporation or member or agent of a partnership, limited liability company, or registered limited liability partnership who shall personally participate in or be an accessory to any violation of this Act by the corporation, limited liability company, registered limited liability partnership, or partnership shall be subject to the penalties herein prescribed for individuals, and the State's Attorney of the county where the offense is committed shall prosecute all persons violating the provisions of this Act upon proper complaint being made. All fines and penalties shall be deposited in the Real Estate Recovery Fund in the State Treasury. OBRE shall have the duty and the right on behalf of the People of the State of Illinois to originate injunction proceedings against any person acting or purporting to act as a licensee without a license issued under the provisions of this Act. OBRE shall also have the duty and the right on behalf of the People of the State of Illinois to originate injunction proceedings against any licensee to enjoin acts by the licensee that constitute violations of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-85)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-85. Recovery from Real Estate Recovery Fund. OBRE shall maintain a Real Estate Recovery Fund from which any person aggrieved by an act, representation, transaction, or conduct of a licensee or unlicensed employee of a licensee that is in violation of this Act or the rules promulgated pursuant thereto, constitutes embezzlement of money or property, or results in money or property being unlawfully obtained from any person by false pretenses, artifice, trickery, or forgery or by reason of any fraud, misrepresentation, discrimination, or deceit by or on the part of any such licensee or the unlicensed employee of a licensee and that results in a loss of actual cash money, as opposed to losses in market value, may recover. The aggrieved person may recover, by order of the circuit court of the county where the violation occurred, an amount of not more than \$10,000 from the Fund for damages sustained by the act, representation, transaction, or conduct, together with costs of suit and attorney's fees incurred in connection therewith of not to exceed 15% of the amount of the recovery ordered paid from the Fund. However, no licensed broker or salesperson may recover from the Fund unless the court finds that the person suffered a loss resulting from intentional misconduct. The court order shall not include interest on the judgment. The maximum liability against the Fund arising out of any one act shall be as provided in this Section, and the judgment order shall spread the award equitably among all co-owners or otherwise aggrieved persons, if any. The maximum liability against the Fund arising out of the activities of any one licensee or one unlicensed employee of a licensee, since January 1, 1974, shall be \$50,000. Nothing in this Section shall be construed to authorize recovery from the Fund unless the loss of the aggrieved person results from an act or omission of a licensed broker, salesperson, or unlicensed employee who was at the time of the act or omission acting in such capacity or was apparently acting in such capacity and unless the aggrieved person has obtained a valid judgment as provided in Section 20-90 of this Act. No person aggrieved by an act, representation, or transaction that is in violation of the Illinois Real Estate Time-Share Act or the Land Sales Registration Act of 1989 may recover from the Fund. (Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-90. Collection from Real Estate Recovery Fund; procedure.

(a) No action for a judgment that subsequently results in an order for collection from the Real Estate Recovery Fund shall be started later than 2 years after the date on which the aggrieved person knew, or through the use of reasonable diligence should have known, of the acts or omissions giving rise to a right of recovery from the Real Estate Recovery Fund.

(b) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must name as parties defendant to that action any and all individual real estate brokers, real estate salespersons, or their employees who allegedly committed or are responsible for acts or omissions giving rise to a right of recovery from the Real Estate Recovery Fund. Failure to name as parties defendant such individual brokers, salespersons, or their employees shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. The aggrieved party may also name as additional parties defendant any corporations, limited liability companies, partnerships, registered limited liability partnership, or other business associations that may be responsible for acts giving rise to a right of recovery from the Real Estate Recovery Fund.

(c) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must notify OBRE in writing to this effect within 7 days of the commencement of the action. Failure to so notify OBRE shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. After receiving notice of the commencement of such an action, OBRE upon timely application shall be permitted to intervene as a party defendant to that action.

(d) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, and the aggrieved person is unable to obtain legal and proper service upon the defendant under the provisions of Illinois law concerning service of process in civil actions, the aggrieved person may petition the court where the action to obtain judgment was begun for an order to allow service of legal process on the Commissioner. Service of process on the Commissioner shall be taken and held in that court to be as valid and binding as if due service had been made upon the defendant. In case any process mentioned in this Section is served upon the Commissioner, the Commissioner shall forward a copy of the process by certified mail to the licensee's last address on record with OBRE. Any judgment obtained after service of process on the Commissioner under this Act shall apply to and be enforceable against the Real Estate Recovery Fund only. OBRE may intervene in and defend any such action.

(e) When an aggrieved party commences action for a judgment that may result in collection from the Real Estate Recovery Fund, and the court before which that action is commenced enters judgment by default against the defendant and in favor of the aggrieved party, the court shall upon motion

of OBRE set aside that judgment by default. After such a judgment by default has been set aside, OBRE shall appear as party defendant to that action, and thereafter the court shall require proof of the allegations in the pleadings upon which relief is sought.

(f) The aggrieved person shall give written notice to OBRE within 30 days of the entry of any judgment that may result in collection from the Real Estate Recovery Fund. The aggrieved person shall provide OBRE within 20 days prior written notice of all supplementary proceedings so as to allow OBRE to participate in all efforts to collect on the judgment.

(g) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee or an unlicensed employee of any broker, upon the grounds of fraud, misrepresentation, discrimination, or deceit, the aggrieved person may, upon the termination of all proceedings, including review and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon 30 days' written notice to OBRE, and to the person against whom the judgment was obtained, may apply to the court for an order directing payment out of the Real Estate Recovery Fund of the amount unpaid upon the judgment, not including interest on the judgment, and subject to the limitations stated in Section 20-85 of this Act. The aggrieved person must set out in that verified claim and at an evidentiary hearing to be held by the court upon the application the aggrieved party shall be required to show that the aggrieved person:

- (1) Is not a spouse of the debtor or the personal representative of such spouse.
- (2) Has complied with all the requirements of this Section.

(3) Has obtained a judgment stating the amount thereof and the amount owing thereon, not including interest thereon, at the date of the application.

(4) Has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(5) By such search has discovered no personal or real property or other assets liable to be sold or applied, or has discovered certain of them, describing them as owned by the judgment debtor and liable to be so applied and has taken all necessary action and proceedings for the realization thereof, and the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(6) Has diligently pursued all remedies against all the judgment debtors and all other persons liable to the aggrieved person in the transaction for which recovery is sought from the Real Estate Recovery Fund, including the filing of an adversary action to have the debts declared non-dischargeable in any bankruptcy petition matter filed by any judgment debtor or person liable to the aggrieved person.

The aggrieved person shall also be required to prove the

amount of attorney's fees sought to be recovered and the reasonableness of those fees up to the maximum allowed pursuant to Section 20-85 of this Act.

(h) The court shall make an order directed to OBRE requiring payment from the Real Estate Recovery Fund of whatever sum it finds to be payable upon the claim, pursuant to and in accordance with the limitations contained in Section 20-85 of this Act, if the court is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person under subsection (g) of this Section and that the aggrieved person has fully pursued and exhausted all remedies available for recovering the amount awarded by the judgment of the court.

(i) Should OBRE pay from the Real Estate Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson or an unlicensed employee of a broker, the licensee's license shall be automatically terminated upon the issuance of a court order authorizing payment from the Real Estate Recovery Fund. No petition for restoration of a license shall be heard until repayment has been made in full, plus interest at the rate prescribed in Section 12-109 of the Code of Civil Procedure of the amount paid from the Real Estate Recovery Fund on their account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection (i).

(j) If, at any time, the money deposited in the Real Estate Recovery Fund is insufficient to satisfy any duly authorized claim or portion thereof, OBRE shall, when sufficient money has been deposited in the Real Estate Recovery Fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate prescribed in Section 12-109 of the Code of Civil Procedure. (Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-95. Power of OBRE to defend. When OBRE receives any process, notice, order, or other document provided for or required under Section 20-90 of this Act, it may enter an appearance, file an answer, appear at the court hearing, defend the action, or take whatever other action it deems appropriate on behalf and in the name of the defendant and take recourse through any appropriate method of review on behalf of and in the name of the defendant.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-100. Subrogation of OBRE to rights of judgment creditor. When, upon the order of the court, OBRE has paid from the Real Estate Recovery Fund any sum to the judgment creditor, OBRE shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all rights, title, and interest in the judgment to OBRE and any amount and interest so recovered by OBRE on the judgment shall be deposited in the Real Estate Recovery Fund.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-105. Waiver of rights for failure to comply. The failure of an aggrieved person to comply with this Act relating to the Real Estate Recovery Fund shall constitute a waiver of any rights under Sections 20-85 and 20-90 of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-110)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-110. Disciplinary actions of OBRE not limited. Nothing contained in Sections 20-80 through 20-100 of this Act limits the authority of OBRE to take disciplinary action against any licensee for a violation of this Act or the rules of OBRE, nor shall the repayment in full of all obligations to the Real Estate Recovery Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-115. Time limit on action. No action may be taken by OBRE against any person for violation of the terms of this Act or its rules unless the action is commenced within 5 years after the occurrence of the alleged violation.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-120. Action to enjoin. Engaging in business as a licensee by any person in violation of this Act is declared to be harmful to the public welfare and to be a public nuisance. An action to enjoin any person from such unlawful activity may be maintained in the name of the People of the State of Illinois by the Attorney General, by the State's Attorney of the county in which the action is brought, by OBRE, or by any resident citizen. This remedy shall be in addition to other remedies provided for violation of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-125)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20-125. No private right of action. Except as otherwise expressly provided for in this Act, nothing in this Act shall be construed to grant to any person a private right of action for damages or to enforce the provisions of this Act or the rules issued under this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/Art. 25 heading)

#### ARTICLE 25. ADMINISTRATION OF LICENSES

(225 ILCS 454/25-5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-5. OBRE; powers and duties. OBRE shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties as are prescribed by this Act. OBRE may contract with third parties for services necessary for the proper administration of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-10. Real Estate Administration and Disciplinary Board; duties. There is created the Real Estate Administration and Disciplinary Board. The Board shall be composed of 9

persons appointed by the Governor. Members shall be appointed to the Board subject to the following conditions:

(1) All members shall have been residents and citizens of this State for at least 6 years prior to the date of appointment.

(2) Six members shall have been actively engaged as brokers or salespersons or both for at least the 10 years prior to the appointment.

(3) Three members of the Board shall be public members who represent consumer interests.

None of these members shall be a person who is licensed under this Act, the spouse of a person licensed under this Act, or a person who has an ownership interest in a real estate brokerage business. The members' terms shall be 4 years and the expiration of their terms shall be staggered. Appointments to fill vacancies shall be for the unexpired portion of the term. A member may be reappointed for successive terms but no person shall be appointed to more than 2 terms or any part thereof in his or her lifetime. Persons holding office as members of the Board immediately prior to December 31, 1999 under the Real Estate License Act of 1983 shall continue as members of the Board until the expiration of the term for which they were appointed and until their successors are appointed and qualified. The membership of the Board should reasonably reflect the geographic distribution of the licensee population in this State. In making the appointments, the Governor shall give due consideration to the recommendations by members and organizations of the profession. The Governor may terminate the appointment of any member for cause that in the opinion of the Governor reasonably justifies the termination. Cause for termination shall include without limitation misconduct, incapacity, neglect of duty, or missing 4 board meetings during any one calendar year. Each member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties. Such compensation and expenses shall be paid out of the Real Estate License Administration Fund. The Commissioner shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and examination of candidates under this Act. OBRE, after notifying and considering the recommendations of the Board, if any, may issue rules, consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms that shall be used in connection therewith. None of the functions, powers, or duties enumerated in Sections 20-20 and 30-5 and subsections (a) and (j) of Section 20-60 of this Act shall be exercised by OBRE except upon the action and report in writing of the Board.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-13)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-13. Rules. OBRE, after notifying and considering the recommendations of the Board, if any, shall adopt, promulgate, and issue any rules that may be necessary for the implementation and enforcement of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-14)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-14. Reliance on advisory letters. Licensees or their representatives may seek an advisory letter from OBRE as to matters arising under this Act or the rules promulgated pursuant to this Act. OBRE shall promulgate rules as to the process of seeking and obtaining an advisory letter and topics and areas on which advisory rules will be issued by OBRE. A licensee is entitled to rely upon an advisory letter from OBRE and will not be disciplined by OBRE for actions taken in reliance on the advisory letter.

(Source: P.A. 92-217, eff. 8-2-01.)

(225 ILCS 454/25-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-15. Director of Real Estate; duties. There shall be in OBRE a Director and a Deputy Director of Real Estate, appointed by the Commissioner, who shall hold a currently valid broker's license, which shall be surrendered to OBRE during the appointment. The Director of Real Estate shall report to the Commissioner and shall do the following:

(1) act as Chairperson of the Board, ex-officio, without vote;

(2) be the direct liaison between OBRE, the profession, and real estate organizations and associations;

(3) prepare and circulate to licensees any educational and informational material that OBRE deems necessary for providing guidance or assistance to licensees;

(4) appoint any necessary committees to assist in the performance of the functions and duties of OBRE under this Act; and

(5) subject to the administrative approval of the Commissioner, supervise all real estate activities of OBRE.

The Commissioner shall appoint, for a term of 4 years, a Deputy Director of Real Estate who shall hold a currently valid broker's license, which shall be surrendered to OBRE during the appointment. Under direction of the Director of Real Estate, the Deputy Director of Real Estate shall be

responsible for the administration of the licensing, disciplinary, and education provisions of this Act. The Deputy Director shall also assist the Director of Real Estate in the performance of his or her duties.

In designating the Director and Deputy Director of Real Estate, the Commissioner shall give due consideration to recommendations by members and organizations of the profession.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-20. Staff. OBRE shall employ sufficient staff to carry out the provisions of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-25. Real Estate Research and Education Fund. A special fund to be known as the Real Estate Research and Education Fund is created and shall be held in trust in the State Treasury. Annually, on September 15th, the State Treasurer shall cause a transfer of \$125,000 to the Real Estate Research and Education Fund from the Real Estate License Administration Fund. The Real Estate Research and Education Fund shall be administered by OBRE. Money deposited in the Real Estate Research and Education Fund may be used for research and education at state institutions of higher education or other organizations for research and the advancement of education in the real estate industry. Of the \$125,000 annually transferred into the Real Estate Research and Education Fund, \$15,000 shall be used to fund a scholarship program for persons of minority racial origin who wish to pursue a course of study in the field of real estate. For the purposes of this Section, "course of study" means a course or courses that are part of a program of courses in the field of real estate designed to further an individual's knowledge or expertise in the field of real estate. These courses shall include without limitation courses that a salesperson licensed under this Act must complete to qualify for a real estate broker's license, courses required to obtain the Graduate Realtors Institute designation, and any other courses or programs offered by accredited colleges, universities, or other institutions of higher education in Illinois. The scholarship program shall be administered by OBRE or its designee. Moneys in the Real Estate Research and Education Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund and all earnings, interest, and dividends received from such

investments shall be deposited in the Real Estate Research and Education Fund and may be used for the same purposes as moneys transferred to the Real Estate Research and Education Fund. Moneys in the Real Estate Research and Education Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/25-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-30. Real Estate License Administration Fund; audit. A special fund to be known as the Real Estate License Administration Fund is created in the State Treasury. All fees received by OBRE under this Act shall be deposited in the Real Estate License Administration Fund. The moneys deposited in the Real Estate License Administration Fund shall be appropriated to OBRE for expenses of OBRE and the Board in the administration of this Act and for the administration of any Act administered by OBRE providing revenue to this Fund. Moneys in the Real Estate License Administration Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund. All earnings received from such investment shall be deposited in the Real Estate License Administration Fund and may be used for the same purposes as fees deposited in the Real Estate License Administration Fund. Moneys in the Real Estate License Administration Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Upon the completion of any audit of OBRE, as prescribed by the Illinois State Auditing Act, which includes an audit of the Real Estate License Administration Fund, OBRE shall make the audit open to inspection by any interested person.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/25-35)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-35. Real Estate Recovery Fund. A special fund to be known as the Real Estate Recovery Fund is created in the State Treasury. The sums received by OBRE pursuant to the provisions of Sections 20-20, 20-30, and 20-80 through 20-100 of this Act shall be deposited into the State Treasury and held in the Real Estate Recovery Fund. The money in the Real Estate Recovery Fund shall be used by OBRE exclusively for carrying out the purposes established by this Act. If, at any time, the balance remaining in the Real Estate Recovery Fund

is less than \$750,000, the State Treasurer shall cause a transfer of moneys to the Real Estate Recovery Fund from the Real Estate License Administration Fund in an amount necessary to establish a balance of \$800,000 in the Real Estate Recovery Fund. These funds may be invested and reinvested in the same manner as authorized for pension funds in Article 14 of the Illinois Pension Code. All earnings, interest, and dividends received from investment of funds in the Real Estate Recovery Fund shall be deposited into the Real Estate License Administration Fund and shall be used for the same purposes as other moneys deposited in the Real Estate License Administration Fund.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/25-37)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-37. Real Estate Audit Fund; audit of special accounts; audit of fund.

(a) A special fund to be known as the Real Estate Audit Fund is created in the State Treasury. The State Treasurer shall cause a transfer of \$200,000 from the Real Estate License Administration Fund to the Real Estate Audit Fund on January 1, 2002. If, at any time, the balance in the Real Estate Audit Fund is less than \$25,000, the State Treasurer shall cause a transfer of \$200,000 from the Real Estate License Administration Fund to the Real Estate Audit Fund. The moneys held in the Real Estate Audit Fund shall be used exclusively by OBRE to conduct audits of special accounts of moneys belonging to others held by a broker.

(b) Upon receipt of a complaint or evidence by OBRE sufficient to cause OBRE to reasonably believe that funds required to be maintained in a special account by a broker have been misappropriated, the broker shall, within 30 days of written notice, submit to an audit of all special accounts. Such audit shall be performed by a licensed certified public accountant, shall result in a written report by the accountant, and shall specifically refer to the escrow and record-keeping requirements of this Act and the rules adopted under this Act. If it is found, pursuant to an order issued by the Commissioner, that moneys required to be maintained in a special account by a broker were misappropriated, as further defined by rule, the broker shall reimburse OBRE, in addition to any other discipline or civil penalty imposed, for the cost of the audit performed pursuant to this Section. OBRE may file in circuit court for a judgment to enforce the collection of the reimbursement of the cost of such audit. Any reimbursement collected by OBRE shall be deposited into the Real Estate Audit Fund.

(c) Moneys in the Real Estate Audit Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund. All earnings received from such investment shall be deposited in the Real Estate Audit Fund and may be

used for the same purpose as other moneys deposited in the Real Estate Audit Fund. Moneys in the Real Estate Audit Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Upon completion of any audit of OBRE, prescribed by the Illinois State Auditing Act, which includes an audit of the Real Estate Audit Fund, OBRE shall make the audit open to inspection by any interested person.  
(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/25-40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25-40. Exclusive State powers and functions; municipal powers. It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act. Nothing in this Section shall be construed to affect or impair the validity of Section 11-11.1-1 of the Illinois Municipal Code, as amended, or to deny to the corporate authorities of any municipality the powers granted in the Illinois Municipal Code to enact ordinances prescribing fair housing practices; defining unfair housing practices; establishing Fair Housing or Human Relations Commissions and standards for the operation of these commissions in the administration and enforcement of such ordinances; prohibiting discrimination based on race, color, creed, ancestry, national origin or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental, or financing of real property for the purpose of the residential occupancy thereof; and prescribing penalties for violations of such ordinances.  
(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/Art. 30 heading)

ARTICLE 30. SCHOOLS AND INSTRUCTORS

(225 ILCS 454/30-5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-5. Licensing of pre-license schools, school branches, and instructors.

(a) No person shall operate a pre-license school or school branch without possessing a valid pre-license school or school branch license issued by OBRE. No person shall act as a pre-license instructor at a pre-license school or school branch without possessing a valid pre-license instructor license issued by OBRE. Every person who desires to obtain a pre-license school, school branch, or pre-license instructor license shall make application to OBRE in writing in form and substance satisfactory to OBRE and pay the required fees prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. OBRE shall issue a pre-license school, school branch, or pre-license instructor license to applicants who meet qualification criteria established by rule. OBRE may refuse to issue, suspend, revoke, or otherwise discipline a pre-license school, school branch, or pre-license instructor license or may withdraw approval of a course offered by a pre-license school for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

(b) All pre-license instructors must teach at least one course within the period of licensure or take an instructor training program approved by OBRE in lieu thereof. A pre-license instructor may teach at more than one licensed pre-license school.

(c) The term of license for pre-license schools, branches, and instructors shall be 2 years as established by rule.

(d) OBRE or the Advisory Council may, after notice, cause a pre-license school to attend an informal conference before the Advisory Council for failure to comply with any requirement for licensure or for failure to comply with any provision of this Act or the rules for the administration of this Act. The Advisory Council shall make a recommendation to the Board as a result of its findings at the conclusion of any such informal conference.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/30-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-10. Advisory Council; powers and duties. There is created within OBRE an Advisory Council to be comprised of 7 members appointed by the Governor for 4-year staggered terms. No member shall serve more than 8 years in a lifetime. Three of the members shall be licensees who are current members of the Board, one member shall be a representative of an Illinois real estate trade organization who is not a member of the Board, one member shall be a representative of a licensed pre-license school or continuing education school, and one

member shall be a representative of an institution of higher education that offers pre-license and continuing education courses. The Director shall serve as the chairman of the Advisory Council, ex officio, without vote. The Advisory Council shall recommend criteria for the licensing of pre-license schools, pre-license instructors, continuing education schools, and continuing education instructors; review applications for these licenses to determine if the applicants meet the qualifications for licensure established in this Act and by rule; approve pre-license school and continuing education curricula; and make recommendations to the Board regarding rules to be adopted for the administration of the education provisions of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/30-15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-15. Licensing of continuing education schools; approval of courses.

(a) Only continuing education schools in possession of a valid continuing education school license may provide real estate continuing education courses that will satisfy the requirements of this Act. Pre-license schools licensed to offer pre-license education courses for salespersons and brokers shall qualify for a continuing education school license upon completion of an application and the submission of the required fee. Every entity that desires to obtain a continuing education school license shall make application to OBRE in writing in forms prescribed by OBRE and pay the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number.

(b) The criteria for a continuing education license shall include the following:

(1) A sound financial base for establishing, promoting, and delivering the necessary courses. Budget planning for the School's courses should be clearly projected.

(2) A sufficient number of qualified, licensed instructors as provided by rule.

(3) Adequate support personnel to assist with administrative matters and technical assistance.

(4) Maintenance and availability of records of participation for licensees.

(5) The ability to provide each participant who successfully completes an approved program with a certificate of completion signed by the administrator of a licensed continuing education school on forms provided by OBRE.

(6) The continuing education school must have a written policy dealing with procedures for the management

of grievances and fee refunds.

(7) The continuing education school shall maintain lesson plans and examinations for each course.

(8) The continuing education school shall require a 70% passing grade for successful completion of any continuing education course.

(9) The continuing education school shall identify and use instructors who will teach in a planned program. Suggested criteria for instructor selections include:

- (A) appropriate credentials;
- (B) competence as a teacher;
- (C) knowledge of content area; and
- (D) qualification by experience.

(c) Advertising and promotion of continuing education activities must be carried out in a responsible fashion, clearly showing the educational objectives of the activity, the nature of the audience that may benefit from the activity, the cost of the activity to the participant and the items covered by the cost, the amount of credit that can be earned, and the credentials of the faculty.

(d) OBRE may or upon request of the Advisory Council shall, after notice, cause a continuing education school to attend an informal conference before the Advisory Council for failure to comply with any requirement for licensure or for failure to comply with any provision of this Act or the rules for the administration of this Act. The Advisory Council shall make a recommendation to the Board as a result of its findings at the conclusion of any such informal conference.

(e) All continuing education schools shall maintain these minimum criteria and pay the required fee in order to retain their continuing education school license.

(f) All continuing education schools shall submit, at the time of initial application and with each license renewal, a list of courses with course materials to be offered by the continuing education school. OBRE, however, shall establish a mechanism whereby continuing education schools may apply for and obtain approval for continuing education courses that are submitted after the time of initial application or renewal. OBRE shall provide to each continuing education school a certificate for each approved continuing education course. All continuing education courses shall be valid for the period coinciding with the term of license of the continuing education school. All continuing education schools shall provide a copy of the certificate of the continuing education course within the course materials given to each student or shall display a copy of the certificate of the continuing education course in a conspicuous place at the location of the class.

(g) Each continuing education school shall provide to OBRE a monthly report in a format determined by OBRE, with information concerning students who successfully completed all approved continuing education courses offered by the continuing education school for the prior month.

(h) OBRE, upon the recommendation of the Advisory Council, may temporarily suspend a licensed continuing education school's approved courses without hearing and refuse to accept

successful completion of or participation in any of these continuing education courses for continuing education credit from that school upon the failure of that continuing education school to comply with the provisions of this Act or the rules for the administration of this Act, until such time as OBRE receives satisfactory assurance of compliance. OBRE shall notify the continuing education school of the noncompliance and may initiate disciplinary proceedings pursuant to this Act. OBRE may refuse to issue, suspend, revoke, or otherwise discipline the license of a continuing education school or may withdraw approval of a continuing education course for good cause. Failure to comply with the requirements of this Section or any other requirements established by rule shall be deemed to be good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/30-20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-20. Fees for continuing education school license; renewal; term. All applications for a continuing education school license shall be accompanied by a nonrefundable application fee in an amount established by rule. All continuing education schools shall be required to submit a renewal application, the required fee as established by rule, and a listing of the courses to be offered during the year to renew their continuing education school licenses. The term for a continuing education school license shall be 2 years and as established by rule. The fees collected under this Article 30 shall be deposited in the Real Estate License Administration Fund and shall be used to defray the cost of administration of the program and per diem of the Advisory Council as determined by the Commissioner.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/30-25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-25. Licensing of continuing education instructors.

(a) Only persons approved by the Advisory Council and in possession of a valid continuing education instructor license issued by OBRE may instruct continuing education courses.

(b) Every person who desires to obtain a continuing education instructor license shall make application to OBRE in writing on forms prescribed by the Office, accompanied by the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. OBRE shall issue a

continuing education instructor license to applicants who meet qualification criteria established by this Act or rule.

(c) OBRE may refuse to issue, suspend, revoke, or otherwise discipline a continuing education instructor for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act. The term of a license for a continuing education instructor shall be 2 years and as established by rule. All Continuing Education Instructors must teach at least one course within the period of licensure or take an instructor training program approved by OBRE in lieu thereof. (Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/30-30)

(Section scheduled to be repealed on January 1, 2010)

Sec. 30-30. Recommendation of rules. The Advisory Council shall recommend to the Board rules that provide for the administration of this Article 30. These rules shall include without limitation the following provisions:

(1) The rules shall define what constitutes a school or a school branch offering work in subjects relating to real estate transactions that shall include the subjects upon which an applicant is examined in determining fitness to receive a license. The rules shall provide for the establishment of a uniform and reasonable standard of instruction and maintenance to be observed by these schools.

(2) The rules shall establish minimum criteria to qualify for and maintain a license as a pre-license school, pre-license school instructor, continuing education school, and continuing education instructor.

(3) The rules shall provide for acts and omissions for which the license of a pre-license school, pre-license school instructor, continuing education school, or continuing education instructor may be disciplined under this Act.

(4) The rules shall provide for the term, date of expiration, and renewal process for the licenses of pre-license schools, pre-license school instructors, continuing education schools, and continuing education school instructors.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/Art. 35 heading)

ARTICLE 35. TRANSITION RULES

(225 ILCS 454/35-5)

(Section scheduled to be repealed on January 1, 2010)  
Sec. 35-5. Savings provisions.

(a) This Act is intended to replace the Real Estate License Act of 1983 in all respects.

(b) Beginning December 31, 1999, the rights, powers, and duties exercised by the Office of Banks and Real Estate under the Real Estate License Act of 1983 shall continue to be vested in, be the obligation of, and shall be exercised by the Office of Banks and Real Estate under the provisions of this Act.

(c) This Act does not affect any act done, ratified, or cancelled, or any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause before December 31, 1999, by the Office of Banks and Real Estate under the Real Estate License Act of 1983, and those actions or proceedings may be prosecuted and continued by the Office of Banks and Real Estate under this Act.

(d) This Act does not affect any license, certificate, permit, or other form of licensure or authorization issued by the Office of Banks and Real Estate under the Real Estate License Act of 1983, and all such licenses, certificates, permits, or other form of licensure or authorization shall continue to be valid under the terms and conditions of this Act.

(e) The rules adopted by the Office of Banks and Real Estate relating to the Real Estate License Act of 1983, unless inconsistent with the provisions of this Act, are not affected by this Act, and on December 31, 1999 those rules become the rules under this Act. The Office of Banks and Real Estate shall, as soon as practicable, adopt new or amended rules consistent with the provisions of this Act.

(f) This Act does not affect any discipline, suspension, or termination taken under the Real Estate License Act of 1983 and that discipline, suspension, or termination shall be continued under this Act.

(g) This Act does not affect any appointments, term limitations, years served, or other matters relating to individuals serving on any board or council under the Real Estate License Act of 1983, and these appointments, term limitations, years served, and other matters shall be continued under this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

(225 ILCS 454/35-10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 35-10. Money in Funds. Transfer of moneys and appropriations moneys held in or appropriations to the Real Estate License Administration Fund, Real Estate Recovery Fund,

or Real Estate Research and Education Fund for the purpose of administering and enforcing the Real Estate License Act of 1983 shall be transferred to and held in those same funds for the purpose of administering and enforcing the provisions of this Act.

(Source: P.A. 91-245, eff. 12-31-99.)

